TUC

Changing the world of work for good

Make Work Pay: ending one-sided flexibility

TUC submission to the consultation on regulations to end one-sided flexibility – reforms of zero-hours and similar contracts

Introduction

The Trades Union Congress (TUC) exists to make the working world a better place for everyone. We bring together the 5.3 million working people who make up our 47 member unions. We support unions to grow and thrive, and we stand up for everyone who works for a living.

We welcome the opportunity to respond to the government's consultation on *Ending One-Sided Flexibility: Reforms of Zero Hours and Similar Contracts*.

The Employment Rights Act 2025 represents the most significant upgrade to workers' rights in a generation. Together with wider reforms set out in the government's *Plan to Make Work Pay*, these measures offer an opportunity to reset the UK labour market after decades in which insecure work has become increasingly embedded.[1]

The TUC supports the government's objective of ending one-sided flexibility and creating a labour market that delivers security for workers and supports growth. It has a clear ambition of ensuring that "everyone has the right to have a contract that reflects the number of hours they regularly work", an "ongoing commitment to protect the integrity of these policies" and to putting place necessary anti-avoidance measures. A high-productivity, high-growth economy depends on workers having secure incomes, predictable working patterns and confidence in their futures.[2]

Based on comprehensive analysis of the Labour Force Survey (LFS)[3], we estimate that there are around 2.5 million variable-hours workers (VHWs) in Great Britain. This includes zero-hours contract (ZHC) workers, agency workers, and other hourly-paid workers whose hours vary.

Such roles have become embedded in the UK labour market. Variable-hours contracts are not being used to fill short-term work. Rather workers are being parked on them for months, if not years. Nearly three-in-four (73.1 per cent) VHWs report being at their current employer for over a year. Over half (56.6 per cent) report having worked there for two or more years. One-in-six (16.6 per cent) report being at their current employer for over a decade. Their employment is long-term, but their contracts leave them vulnerable to their hours, and therefore their incomes, changing or indeed being removed altogether with no notice.

Half (50.0 per cent) of VHWs report working full-time, according to official data. More than eight-in-ten (84.5 per cent) are not in full-time education. For most, flexibility of hours is not

---

[1] Klair, A. (2025). "The scale of insecure work in the UK." *Research and reports,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/scale-insecure-work-uk

[2] Trades Union Congress (2025). "Making work pay is good economics." www.tuc.org.uk/research-analysis/reports/making-work-pay-good-economics

[3] This analysis reflects the January to March 2026 LFS. As prominent sources of labour market data do not provide workers' contractual hours (apart from those on ZHCs), we have used worker's reported usual weekly hours as a proxy for their contracted hours in our analysis. This may overstate actual contracted hours for some respondents. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation; Office for National Statistics. (2026). *Quarterly Labour Force Survey, January - March, 2026*. [data collection]. UK Data Service. SN: 9659, DOI: http://doi.org/10.5255/UKDA-SN-9569-1

a choice. Nor do such jobs comfortably fit around their other life commitments as some supporters of the status quo like to argue. Instead, these jobs are their primary source of earnings. This is supported by polling that shows that most zero-hours workers take on such contracts because it is the only work available or that precarious variable-hours contracts are widespread for their line of work.[4] There is little justification for such jobs offering no security.

Workers on zero- and variable-hours contracts face unpredictable earnings, difficulties accessing housing and credit, challenges balancing work with family responsibilities, and significant stress and uncertainty about their future income. According to recent polling for the TUC, more than half of all workers report not being paid the last time their hours were cancelled. This rose to two-thirds among workers on ZHCs.[5] Last-minute cancellations and changes to shifts transfer business risk from employers to workers, leaving working people to absorb costs that should be borne by employers. These practices undermine workforce retention, morale and productivity and damage workers' mental health.[6] Just under a third (30 per cent) of people in work who have had to use a food bank are in insecure work such as zero hours contracts or agency work.[7] Variable pay also causes problems with Universal Credit claims and can lead some workers into debt. Moreover, these approaches allow some employers to compete through insecure employment practices rather than investment and innovation - and they undercut those with good employment practices.

VHCs also further distort power dynamics in the workplace. Participants in a study of zero-hours workers by the Work Foundation described being afraid of making their shift manager upset for fear of retribution, such as the loss of future shifts (and therefore income). The power imbalance inherent to their contracts also contributed to workers feeling pressured to accept last-minute shift requests, cancellations or changes. Participants also reported that their ZHC empowered their employers to act in an unprofessional manner, including with frequent out of hours contact, or infringe on their wider rights, for example limiting their ability to take breaks or time off.[8] In some cases the use of such contracts facilitates abusive behaviour, such as demands that workers exchange sexual favours for work.[9]

Workers themselves are clear that they want greater stability. Most insecure workers say they would prefer stable hours, with TUC polling showing that over 80 per cent of ZHC workers want consistent schedules with optional overtime. One third of people on a ZHC had asked

---

[4] Trades Union Congress (2024). "Clear majority of zero-hours contracts workers "stuck" in insecure jobs in the long-term, TUC warns" www.tuc.org.uk/news/clear-majority-zero-hours-contracts-workers-stuck-insecure-jobs-long-term-tuc-warns

[5] Abdul, S. (30 September 2025). "The experience of insecure work." *Research and reports,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/experience-insecure-work

[6] Gruet, S. (30 January 2023). "Cost of living: Zero-hour jobs and the impact on mental health" BBC News website www.bbc.co.uk/news/newsbeat-64426657

[7] Ipsos (29 June 2023). "One in seven people face hunger across the UK because they don't have enough money" www.ipsos.com/en-uk/one-seven-people-face-hunger-across-uk-because-they-dont-have-enough-money

[8] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

[9] Nanji, N. (7 January 2025). "McDonald's workers make fresh harassment claims." BBC News. www.bbc.co.uk/news/articles/c75ngl49695o

for guaranteed hours but had their request turned down by their employer, against 9 per cent who had been successful, and the remainder hadn't asked.[10]

The impact of insecure work is not felt equally across the workforce. Women, Black and minority ethnic (BME) workers and other groups that already experience labour market disadvantage are disproportionately represented in forms of insecure employment. Reforms that reduce insecurity therefore have an important role to play in tackling persistent inequalities in the labour market.[11]

The problems addressed by this consultation are particularly acute in sectors with high levels of casualised work, including social care, hospitality, and the retail workforce. In many of these sectors, workers routinely experience fluctuating hours, short-notice scheduling and cancelled shifts, despite regularly working patterns that justify contractual guarantees.

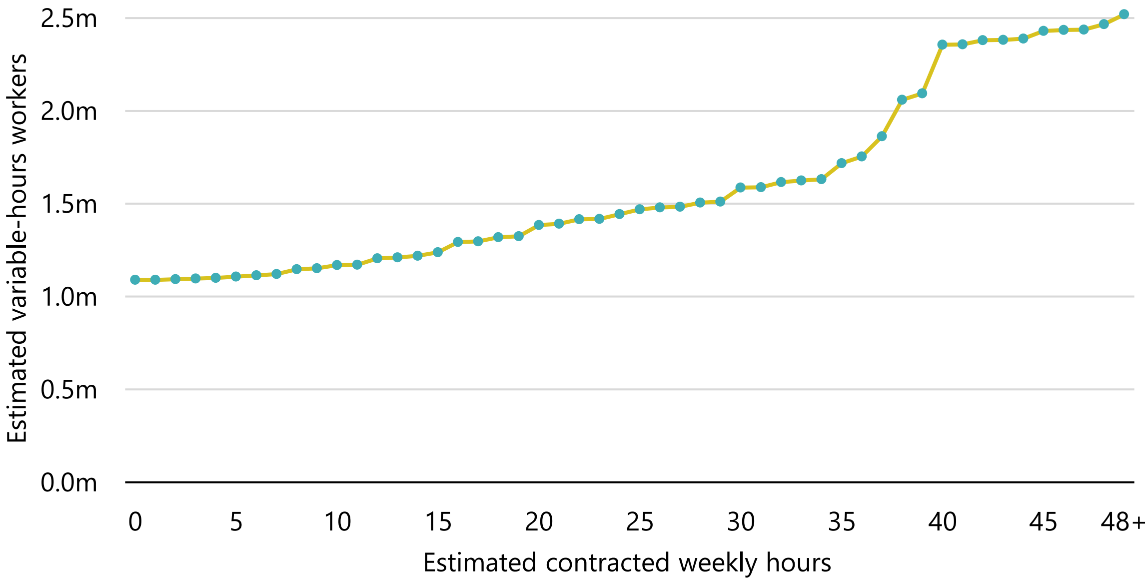
The government has made its ambitions for these reforms clear in its *Plan to Make Work Pay*. They are central to its mission to improve growth. As the Labour Party's manifesto stated: "Labour is committed to creating jobs that provide security, treat workers fairly, and pay a decent wage." Therefore, central to the success of these reforms will be whether they improve security for workers in the sectors where insecure work has become most entrenched.

The TUC welcomes the introduction of new rights to guaranteed hours, reasonable notice of shifts, and compensation for shifts that are cancelled, moved, or curtailed. However, the success of these reforms will depend on robust implementation.

The TUC strongly advocates for the hours threshold for eligibility to be set at full-time contracted hours, if one is set. The graph below shows that setting it below this leaves many workers unprotected and risks distorting the allocation of shifts.

[10] Abdul, S. (30 September 2025). "The experience of insecure work." *Research and reports,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/experience-insecure-work
[11] Trades Union Congress and Race on the Agenda (2021). "BME workers on zero-hours contracts." www.tuc.org.uk/research-analysis/reports/bme-workers-zero-hours-contracts

Estimated cumulative distribution of contracted hours among variable-hours workers, GB (Jan-March 2026)



TUC analysis of Labour Force Survey

Notes: Variable-hours workers include zero-hours contracts, agency workers, and those whose hours vary and are paid hourly. Usual weekly hours (excluding overtime) has been used as a proxy to estimate contractual weekly hours, but assuming those on zero-hours contracts have a proxy value of zero.

We strongly agree with the government's proposal to include agency workers within the scope of the new rules. We think that agency workers must be included on a basis that should mirror protections applying to directly engaged workers. Agency work should not become a route through which employers can avoid providing security and predictability.

On top of this, compensation for shifts cancelled, moved or curtailed at short notice must fully recompense workers for the losses they suffer. Workers should not bear the financial consequences of fluctuating business demand or poor workforce planning. Business risk should remain with businesses, not be transferred onto workers.

The TUC is concerned that the consultation paper raises the prospect of a vast range of potential loopholes that an unscrupulous employer could exploit. These include:

- The hours threshold for a guaranteed hours contract
- The regularity test for weeks worked in a period
- The regularity test for hours worked above contracted hours
- Exemptions for temporary need
- Ability for employers to offer contracts that differ from a worker's normal working pattern.
- An adjustment margin for guaranteed hours
- Exclusion of certain workers from the right to guaranteed hours
- Exemption for employers from the guaranteed hours duty in certain circumstances

- Potentially different regimes for directly engaged and agency workers
- Subsequent reference periods that could be longer than the initial 12-week one
- Gaps between reference periods
- An hours threshold for reasonable notice
- Ability for shorter notice to be given in some circumstances
- Potential exemptions for some hirers from reasonable notice
- Compensation payments that are less than the wages a worker was due by being based either on minimum wage rates and/or only provide for a percentage payment
- Circumstances allowing exceptions to short-notice payments
- Certain hirers being exempt from short notice payments

A framework full of loopholes will offer little real protection to insecure workers. It will leave many subject to huge swings in hours and income and with extremely limited capacity to bargain for improved pay and conditions. The regulations developed through this consultation must set robust standards. If not, they will fail to establish a meaningful baseline of security at work, raise standards across the labour market and support the government's goal of building a stronger and fairer economy.

Although it is not addressed in this consultation paper, to aid effective implementation of these measures, we urge the government to put in place new support for unions and employers, especially in sectors where the use of insecure contracts is widespread. Successful introduction will depend on managers, as well as workers and their union reps, fully understanding the legislation and being supported to put it into practice.

Addendum

We are grateful for the opportunity to provide comment on the government's options assessments (OA) in this addendum to our initial submission. We also appreciate the significant quantity of new research that the government has released alongside these, which provides further evidence that 'one-sided flexibility' has a negative impact on workers' lives and finances. It was, however, disappointing that this material was released less than two weeks prior to the consultation deadline, rendering it challenging for unions to properly incorporate it into their submissions.

It is important that an initially apparent inconsistency in the detail of the *Experiences of workers in insecure work: Research Study*[12] is not misunderstood. The report contains a survey finding that 58 per cent of workers in insecure work would like consistent and guaranteed hours matching their usual working patterns but also that 72 per cent of workers in insecure work agree that their work arrangements are or were well suited to their lifestyle. We agree with the government's interpretation that the latter result reflects satisfaction with broader facets of work, such as working part-time hours, evening/weekend patterns, term-time working, or other broader parameters, rather than reflecting satisfaction with insecurity. We have found similar results to the first question in TUC polling of ZHC workers specifically. Most insecure workers say that they would prefer stable hours, with TUC polling showing

---

[12] Department for Business & Trade & Ipsos UK. (May 2026). "Experiences of workers in insecure work: Research Study." www.gov.uk/government/consultations/make-work-pay-ending-one-sided-flexibility-reforms-of-zero-hours-and-similar-contracts

that over 80 per cent of ZHC workers want consistent schedules with optional overtime. The poll further revealed that even among the minority of ZHC workers who reported working in this way because of their need for flexibility (for care or for study) – six in 10 (61 per cent) – would prefer a contract with guaranteed shifts. Amongst carers on ZHCs because of their need for flexibility, this rose to almost four-fifths (78 per cent).[13] The need many workers have for flexible working patterns is well documented – but most workers want contractual security alongside a flexible working pattern.

The new government analysis has not changed our stated policy positions, which are aimed at ensuring robust implementation of the right to guaranteed hours, reasonable notice of shifts, and full compensation for shifts cancelled at short notice. All variable-hours workers, including ZHC workers, agency workers, and other hourly-paid workers whose hours vary, deserve and need an end to one-sided flexibility.

When Prime Minister Andy Burnham addressed the nation for the first time from Downing Street in July 2026, he promised, "We will make this moment a circuit breaker for Britain, bringing forward the biggest changes in the last 40 years. A new political model and a new economic model."[14] An early test of this 'circuit breaker' promise will be whether one-sided flexibility practices are fundamentally interrupted. For example, setting the hours threshold for guaranteed hours at no more than 20 hours per week risks leaving much of the current problematic circuitry intact. It also risks making things worse for some, creating a perverse incentive for employers to avoid offering overtime to workers with contractual hours below and up to this threshold, as employers could seek to avoid triggering new obligations to offer guaranteed hours. This would create a high risk of making some workers worse off.

Nevertheless, the OA's have been presented without modelling the full range of regulatory options that are open to government under the Employment Rights Act 2025. Neither of the TUC's preference for an hours threshold for the right to guaranteed hours to be set at 48 hours per week, if one is set, nor for workers to receive full compensation for shifts cancelled at short notice are modelled in the new OA's.

The OA for guaranteed hours only models an hours threshold ranging from 8 to 20 hours per week, and the OA for the right to payment for shifts cancelled at short notice only models compensation ranging from 10 per cent of the NMW/NLW to 80 per cent of the worker's actual hourly rate per cancelled hour.

We are also concerned that the modelling that has been undertaken overstate the monetised costs and understate the benefits:

- **The only worker benefit that the OA's monetise are payments for short notice cancellation.** This is despite the fact that the OAs all note a range of research relevant to the expected worker benefits from the new rules, such as improved

[13] Trades Union Congress (30 August 2024). "Over 8 in 10 zero-hours contract workers want regular hours – TUC poll reveals." www.tuc.org.uk/news/over-8-10-zero-hours-contract-workers-want-regular-hours-tuc-poll-reveals; Abdul, S. (30 September 2025). "The experience of insecure work." *Research and reports,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/experience-insecure-work

[14] Crerar, P. and Walker, P. (20 July 2026). "Burnham promises 'circuit breaker' moment for UK as he becomes PM." The Guardian. www.theguardian.com/politics/2026/jul/20/andy-burnham-uk-prime-minister-meeting-king-charles

wellbeing, improved mental and physical health, a reduced risk of economic inactivity, a reduced 'insecurity premium' (e.g. unexpected loss of wages and paying higher costs for things, such as due to obtaining travel and childcare at short notice).[15] New primary data released alongside the OA's directly supports the latter two points through the *Precarious Work and Economically Inactive Survey*, commissioned by the Ministry of Housing, Communities, and Local Government. The survey found that around 4 in 10 (40 per cent) of economically inactive respondents reported that a right to guaranteed hours could make it easier for them to return to work. The survey also showed that one in three 'precarious workers' reported a financial loss due to insecure hours and income. The average loss was £250 over a four-week period, equating to more than £3,000 per year for these workers.[16]

- **The already monetised employer costs would be reduced if the reforms functioned as intended.** The aim of the reforms is to end one-sided flexibility. The compensation payment for short notice cancellation is meant to deter employers from cancelling shifts at short-notice, sometimes even after workers have arrived to work. The OA for the right to payment for shifts cancelled at short notice estimates payment costs based on current employer behaviour. It also refers to the costs as 'illustrative', noting that—in reality—employers would be incentivised to better plan for changing demand. At the high end, these 'illustrative' costs of £1.2 billion for cancellation payments equate to more than 40 per cent of the £2.9 billion monetised direct cost to business estimate.

- **There is a risk that the scope of workers contributing to the monetised business costs may be overstated.** In the previous impact assessment on the right to guaranteed hours, government analysed the Jan-March 2024 quarter of the Labour Force Survey (LFS) in a similar manner to the TUC-updated figures presented in our response. At the time, DBT estimated that 2.4 million workers, including ZHC workers, agency workers, and those who were paid hourly and had hours which varied week-to-week stood to benefit from the new rights. This was before applying any policy parameters, such as an hours threshold or a regularity test.[17] In these new OA's, the government has updated their estimate of workers potentially in-scope using the Annual Survey of Hours and Earnings (ASHE). Prior to applying policy parameters other than an hours threshold of 8 to 48 hours per week, the new analysis estimates 3.3 million to 28.6 million employee jobs potentially in scope—essentially all workers.

---

[15] Richardson, J. (August 2023). "Precarious Pay and Uncertain Hours." Living Wage Foundation. www.livingwage.org.uk/precarious-pay-and-uncertain-hours-insecure-work-uk-labour-market
[16] Department for Business and Trade. (12 August 2026). "Analysis to support the consultation: covering note." https://www.gov.uk/government/consultations/make-work-pay-ending-one-sided-flexibility-reforms-of-zero-hours-and-similar-contracts; see also: Ministry of Housing, Communities and Local Government. (12 August 2026). "Precarious Work and Economically Inactive Survey: Technical Report." www.gov.uk/government/publications/precarious-work-and-economically-inactive-survey-technical-report
[17] Department for Business and Trade. (7 Jan 2026). "Employment Rights Act 2025: economic analysis." www.gov.uk/guidance/employment-rights-bill-impact-assessments; see also Department for Business and Trade. (21 October 2024) "Impact assessment: ZHCs - Right to Guaranteed Hours." www.gov.uk/guidance/employment-rights-bill-impact-assessments

Neither dataset solves the problem that no single, robust source of labour market data on worker's guaranteed hours (i.e. contractual) exists. ASHE may provide a more reliable measure of basic hours, but it lacks data on whether the worker's hours vary. The OAs also purport ASHE to provide a more reliable estimate for the number of workers on ZHC's, although we note that the ONS' headline statistics for ZHC workers reflect the Labour Force Survey[18] and that the ONS does not publish ZHC statistics using ASHE. It is difficult to understand why workers who are not on a ZHC and whose hours may not vary would generate costs associated with ending one-sided flexibility. We are also concerned that government cost estimates appear to be based on a number of zero hours contract workers which is likely to be significantly higher than ONS' published numbers.

The majority of the monetised business costs for the right to guaranteed hours relates to tracking hours and making guaranteed hours offers. This is calculated using per worker unit costs, so the number of workers in-scope is important. Although the highest estimate only assumes a 20-hour per week threshold, no attempt is made to exclude workers whose hours do not vary or do not work shifts. This also risks inflating the numbers in scope.

The majority of the monetised business costs for short-notice cancellations are the compensation payments themselves, which are again calculated using a per worker unit cost, so the number of workers in-scope remains consequential. An assumption is made to restrict this analysis to variable-hours workers, but only in the high estimate, where a 48-hour threshold is also applied. However, the Living Wage Foundation source of this assumption reports that only 44 per cent of the workforce do not work variable hours or shifts – which we believe is likely to be too low.[19] By contrast, the government's prior estimate of 2.4 million variable-hours workers overall using LFS would have suggested a figure north of 90 per cent of workers not working variable hours or shifts (as there were around 29 million total workers reported in the same LFS quarter).[20] The OA acknowledges that uncertainty remains as to whether everyone reporting variable hours in the LWF survey would fall within scope of the short-notice cancellation policy in practice. The costs as published at the high end reflect around five million workers potentially receiving cancellation payments. Again, this seems likely to be too high.

---

[18] Office for National Statistics (ONS), published 19 May 2026, ONS website, dataset www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/emp17peopleinemploymentonzerohourscontracts

[19] Living Wage Foundation. (2023). "Living Wage Foundation 2023 – Living hours shift notice period." Living Wage Foundation (2023); In a UK representative sample of workers (18+), 44 per cent responded "Not applicable - my job does not involve variable working hours or shift work" to "In your main job, what is the minimum amount of notice you get of your working hours, shifts or work schedules?"

[20] Office for National Statistics (ONS), released 19 May 2026, ONS website, statistical bulletin, Labour market overview, UK: May 2026

- **There is a risk that the scope of employers contributing to the monetised business costs may be overstated.** The majority of the monetised business costs for reasonable notice of shifts relates to ongoing workforce planning. This is calculated using a per employer unit cost, so the estimated number of businesses that would need to do workforce planning is salient. Before assumptions are applied relating to worker notice in the status quo, the OA sets out the proportion of employers that may need to comply with the right to reasonable notice. In the low estimate, where an 8-hour threshold is applied, the OA relies on evidence from the Resolution Foundation that only 75 per cent of UK employers employ at least 1 worker on a "flexible" contract.[21] In the high estimate, where a 48-hour threshold is applied, the OA assumes 'cautiously' that all employers (100 per cent) may need to take action to comply. While the OA rightly acknowledges that the degree of action required for any given employer will vary in practice, we still consider it is overcautious to include all employers as potentially in-scope in the high estimate. This appears to be based on a belief that some workers contracted up to 48 hours per week would require reasonable notice but *not* already be covered by the Resolution Foundation's definition of a "flexible" contract – which already appears to be very broad. It is challenging to understand who such workers would be and therefore to understand why the government has presumed a 100 per cent estimate.

[21] Slaughter, H. (April 2024). "Firm foundations: Understanding why employers use flexible contracts." Resolution Foundation. www.resolutionfoundation.org/publications/firm-foundations/; The Resolution Foundation defines a flexible contract as "one that entails significant uncertainty for the worker, either because they do not know how much they will be paid week to week, or because they have a guaranteed income only for a limited period of time.". The specific categories included in the definition are: workers on zero-hour contracts, workers whose number of hours worked varies week-to-week and who are paid a fixed hourly rate, workers on 'short-hours contracts' (which guarantee between 1 and 8 hours of work a week), workers on fixed-term contracts < 6 months, temporary workers on casual contracts, and temporary seasonal workers.

Detailed responses to questions

Q1.a: For directly engaged workers, which of the following options should the hours threshold be:

An hours threshold is unnecessary. Our preference would be not to have one. This would ensure that all workers have the right to a guaranteed hours contract (GHC) that reflects their regular hours of work. This view is shared by the Business and Trade Committee which highlighted its concern that such a threshold "creates a loophole that can be exploited by companies to avoid their obligations".[22]

However, as the Employment Rights Act 2025 provides for the government to set one, our preference is for any hours threshold to be set at a level that ensures that workers on anything up to full-time hours contracts will benefit from the new measures. Therefore, we would urge any hours threshold to be set at 48-hours per week where contracts guarantee hours on a weekly basis and the equivalent for contracts that guarantee hours over a different period (e.g. a monthly or annualised period). The equivalent threshold should reflect the number of weeks in the alternative period appropriately. For example, an annualised contract over a non-leap year runs around 52.14 weeks (i.e. 365/7); this would result in an equivalent threshold of 2,503 hours per year, rounded up to the next whole hour.

This would broadly align the hours threshold with *The Working Time Regulations 1998* (as amended), which seeks to protect workers from an employer-imposed contractual obligation to exceed 48-hours per week on average.[23]

Q1.b: Please explain your answer

Workers with contractual hours above this hours threshold will lose the right to a GHC that reflects their usual hours. Whether or where the government sets this hours threshold is therefore the starting position for which workers may gain new rights to guaranteed hours. However, the entitlement to a GHC will also be subject to a range of other complex regulations considered in this consultation, most importantly those relating to the regularity of work and the temporary need for work.

The TUC strongly supports the government's commitment in its *Plan To Make Work Pay* to "end 'one sided' flexibility and ensure all jobs provide a baseline level of security and predictability, banning exploitative zero-hours contracts and ensuring everyone has the right to have a contract that reflects the number of hours they regularly work, based on a 12-week reference period."[24] Getting the hours threshold right is crucial to delivering this ambition.

---

[22] Business and Trade Committee (3 March 2025). "Make Work Pay: Employment Rights Bill Third Report of Session 2024–25 HC 370" https://committees.parliament.uk/publications/46693/documents/241361/default/

[23] Trades Union Congress (16 Dec 2025). "What are the main health and safety regulations." *Workplace guidance articles,* Trades Union Congress. www.tuc.org.uk/guidance/what-are-main-health-and-safety-regulations

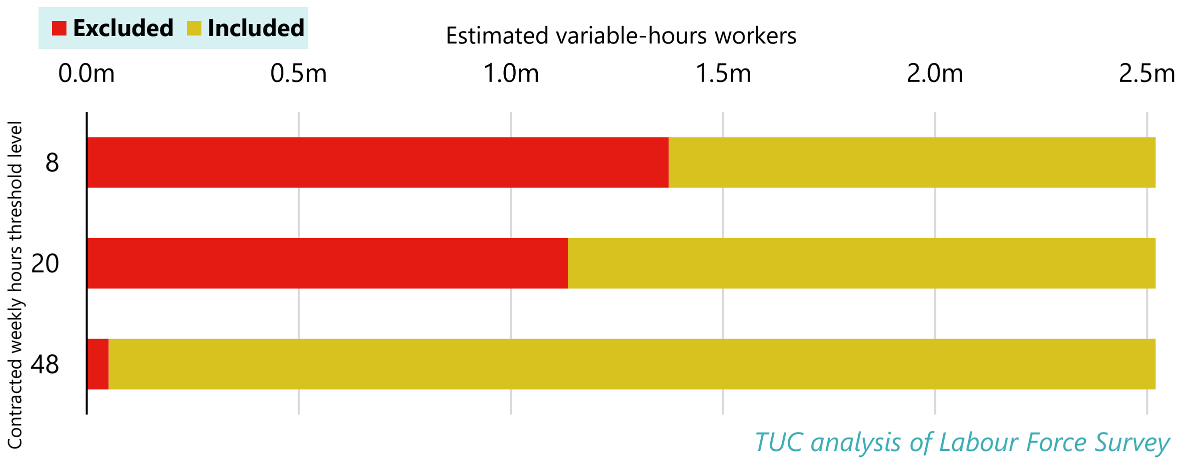
[24] The Labour Party (2024). "Labour's plan to make work pay: Delivering a New Deal for Working People." https://labour.org.uk/wp-content/uploads/2024/05/LABOURS-PLAN-TO-MAKE-WORK-PAY.pdf

Based on TUC analysis of the Labour Force Survey (LFS)[25], we estimate that there are around 2.5 million VHWs in Great Britain who stand to gain the right to a GHC reflecting their regular hours, if new rights are universally implemented.

It is the TUC's strong view that the government should rethink its stated preference for an hours threshold within the range of eight to 20 hours per week. This would exclude significant numbers of VHWs, create unfair and disparate levels of protection for people with the same or similar working patterns, and create significant administrative complexity for employers.

As shown in the graph below, we estimate that this would exclude around 1.1 million to 1.4 million VHWs from eligibility. In contrast, a threshold of 48 hours per week would include nearly all 2.5 million VHWs. Given the acknowledged data limitation of our proxy for contracted weekly hours (as set out in our appendix), it is likely that coverage at an hours threshold set at 48 hours would be even more comprehensive than shown.

Estimated variable-hours workers eligibility at various threshold levels, GB, Jan-March 2026



TUC analysis of Labour Force Survey

As well as excluding many VHWs from eligibility, setting this threshold within the range of eight to 20 hours per week would also create unfair outcomes between people who regularly work similar hours, but on different contractual terms. For example, if this threshold were set at 19 hours per week, a hypothetical worker, Priya, contracted on 20 hours per week but regularly working 30 hours per week, would not have a right to a GHC. However, a hypothetical ZHC worker, Sally, who is also regularly working 30 hours per week, would have a right to a GHC at 30 hours per week. The ZHC worker, Sally, would rightly receive a contract reflecting her regular working hours. Meanwhile, Priya, would remain at risk of her employer cutting her hours and pay by a third (from her usual 30 per week to her contractual 20), without the protection of a GHC. This is despite both workers having similar actual working hours.

[25] This analysis reflects the January to March 2026 LFS. As prominent sources of labour market data do not provide worker's contractual hours (apart from those on zero-hours contracts), we have used worker's reported usual weekly hours as a proxy for their contracted hours in our analysis. This may overstate actual contracted hours for some respondents. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

Setting this threshold between eight and 20 hours would also generate significant administrative complexity for employers, who could end up having to manage two different sets of compliance rules for two different sets of workers (i.e. workers contracted up to the threshold and workers contracted above the threshold). As we will unpack in our response to Questions 1.c and 1.d, this administrative complexity could also have further unintended consequences, creating an incentive to employ workers on contracts just above the threshold (a slightly elevated floor, with continued insecurity for hours regularly worked above this for workers). It could also disincentivise giving overtime to the lowest-paid, lowest-hours workers, with high risk of making things worse for some VHWs.

We have heard of concerns that salaried workers doing unpaid overtime could be captured by the provisions on guaranteed hours. Examples given can include a teacher putting in additional hours during a school trip or a finance worker completing tasks to meet an end of a tax year deadline. The assertion made by those proposing this view is that such workers would have to be offered a contract with additional hours and therefore the hours threshold should be set at a low level to take more workers out of scope.

The TUC's analysis is that this is based on a misreading of the legislation. There are several reasons to conclude that salaried workers doing unpaid work do not fall within scope of the qualifying requirements set out in s27BA(3) of the Employment Rights Act 1996, which has been inserted by the Employment Rights Act 2025.

A starting point is to consider the policy intent. In the *Next Steps to Make Work Pay*, the government states: "The inclusion of 'low hours' workers will ensure that employers cannot avoid the measures by moving zero hours workers onto a slightly higher number of guaranteed hours, at the same time as avoiding unintended consequences for workers on full-time contracts… The Government will also ensure that workers on full-time contracts who occasionally pick up overtime hours are not affected….".[26] This indicates that section 27BA(3)(ii) is intended as an anti-avoidance measure. It also indicates that unintended consequences for workers on full-time contracts are to be avoided.

It should further be noted that the heading of the part of the legislation where the relevant provisions are to be found is 'Zero hours and similar'. That suggests that the coverage is limited to arrangements that are 'similar' to zero hours contracts. This doesn't mean that eligibility is to be limited to contracts in which only a small number of hours are guaranteed but that the central feature is that the obligation to work is conditional on work being made available, and there being no obligation to make any work available. The language of 27BA(3)(a)(ii) uses the same features as the definition of a 'zero hours contract' or 'zero hours arrangement', with reliance placed on the employer "being required to make work available to the worker during the reference period for a number of hours not exceeding the minimum number". Such a focus on work being made available for a fixed number of hours, and payment being made by reference to those hours worked contrasts with a typical salaried

[26] Department for Business and Trade (10 October 2024). *Next Steps to Make Work Pay* www.gov.uk/government/publications/next-steps-to-make-work-pay. It should also be noted that the TUC's understanding of "low hours" in this context relates to a worker whose contracted hours are lower than those they typically work.

contract, where there may be basic hours, but often no expectation of being paid for overtime.

While we are confident with the interpretation above, if the government would prefer greater clarity, we note that it has powers in section 27BA(3)(d) that permit the Secretary of State to specify that reference period hours satisfy 'such conditions (or, where paragraph (a)(ii) applies, such further conditions) as to number, regularity or otherwise….'. 'Reference period hours' is the number of hours worked by the worker under the worker's contract in the reference period. These powers could be used to clarify whether 'salary type' work is included. This might be achieved by analogy with the differentiation of 'salaried hours work' and 'time work' in the National Minimum Wage Act 1998.

Q1.c: Which option(s) (including any not outlined above) do you think could have an impact on the number of contracted hours in job offers?

We are gravely concerned that an hours threshold that is set too low would simply create a new contractual hours floor that fails to provide workers with the security and predictability that they need.

A low threshold would enable unscrupulous employers to game the system by employing workers on contracts just over the threshold but varying their hours significantly on top of that. For example, if this threshold was set at only eight hours per week—roughly a single day's work—employers could entirely evade the duty to offer a GHC by only employing workers on a minimum of nine hours per week, while remaining free to significantly vary working hours above that.

Workers even with relatively high numbers of guaranteed hours would face significant hardship if some of their regular hours could still be withdrawn, particularly given the often relatively high number of regular hours (see analysis below) and low wages faced by many VHWs. This is why all VHWs need contractual certainty over all their regular hours.

For example, an employee regularly working 30 hours per week—but contracted only for 10—could see their hours (and pay) cut by two-thirds without the protection of a contract to reflect their regular hours. An employee regularly working 40 hours per week—but contracted only for 10—could see their hours (and pay) cut by three-quarters without the protection of a contract to reflect their regular hours. Such workers may also face significant continued struggles maintaining personal relationships, managing their caring responsibilities, and scheduling healthcare appointments akin to those described by ZHC workers in the Work Foundations report *In Limbo*[27] due to their continued insecurity.

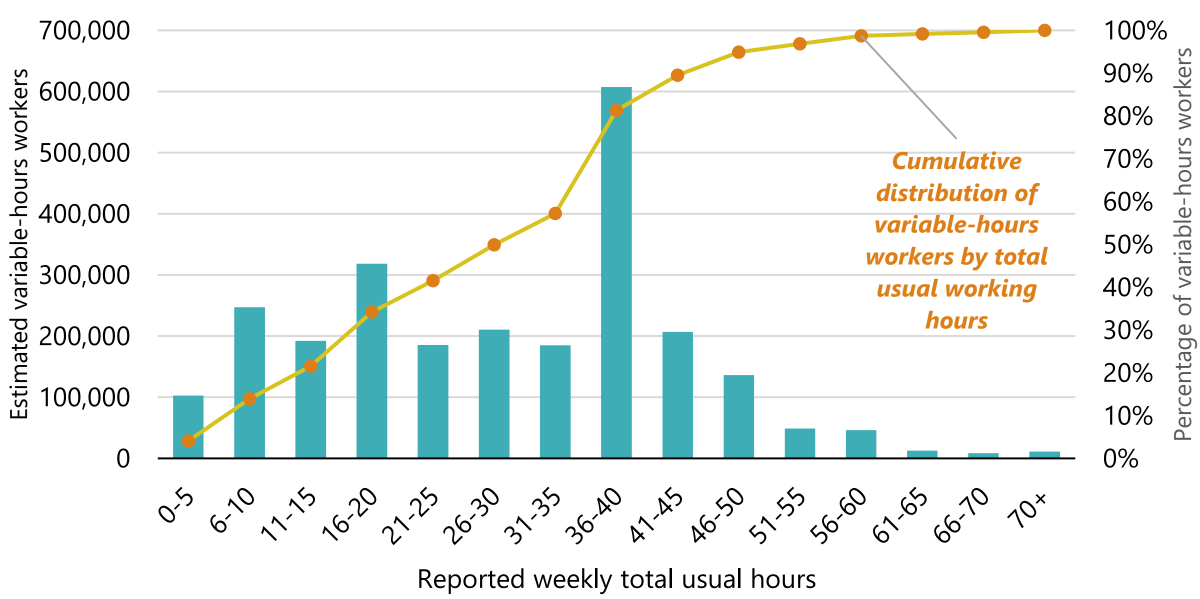
This is a substantial risk because the typical VHW typically works significant numbers of hours. Based on TUC analysis of the LFS,[28] the median total usual hours for the estimated 2.5 million VHWs in Great Britain is 31.0 hours per week and the mean is 29.5 hours per

[27] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

[28] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

week, an average which is only slightly pulled down from the median by those working lower levels of hours. However, there is also considerable variation in this figure amongst VHWs, as shown by the graph below. It should be noted that around 607,000 VHWs usually work a total of 36-40 hours per week alone.

Estimated variable-hours workers by reported total usual working hours, GB, Jan-March 2026



TUC analysis of Labour Force Survey

Notes: Values scaled up to full variable-workers estimate, correcting for a small proportion (3.9 per cent) with missing total usual hours data.

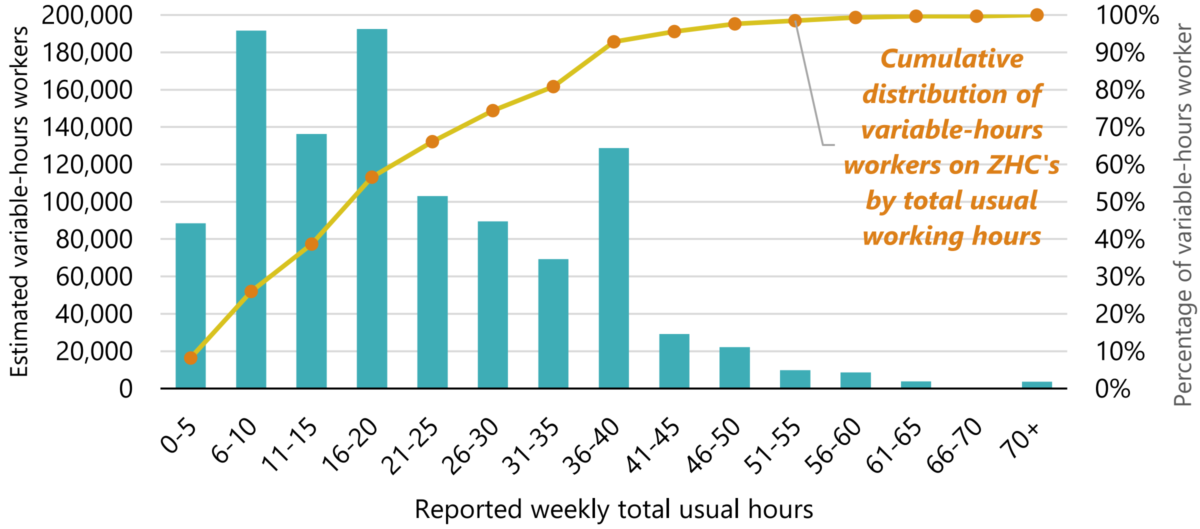
Even for the VHWs in Great Britain who are specifically on a ZHC, TUC analysis of the LFS[29] indicates that their median total usual hours is 20.0 hours per week and their mean is 21.9 hours per week.[30] This means that for those on ZHC contracts specifically, the mean average is pulled up from the median by those working greater numbers of hours. There is again also considerable variation in this figure amongst those specifically on ZHCs, as shown by the graph below, which notably highlights that around 192,000 of these workers are usually working a total of 16-20 hours per week and around 129,000 are usually working a total of 36-40 hours per week.

---

[29] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

[30] Per the ONS publication on ZHC workers specifically, the mean total usual hours for all those in employment on zero-hours contracts in the UK was 22.6 hours per week during Jan-March 2026. These figures include some individuals who are not employees in their main job (mainly self-employed) or who live in Northern Ireland, who have been excluded from the TUC's VHW estimate. Office for National Statistics (ONS), published 19 May 2026, ONS website, dataset www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/emp17peopleinemploymentonzerohourscontracts

Estimated variable-hours workers on a ZHC by reported total usual working hours, GB, Jan-March 2026



TUC analysis of Labour Force Survey

Notes: Values scaled up to full ZHC estimate, correcting for a small proportion (5.8 per cent) with missing total usual hours data.

The Work Foundation conducted recent qualitative research on the working lives of ZHC workers. One of the profiled workers, Emma, was a bartender in London, averaging 30 hours per week. Currently with no guaranteed hours at all, she reported that she "generally live[s] pay cheque to pay cheque."[31] If the hours threshold were set at nine hours per week, her employer might pre-emptively offer her new contractual terms guaranteeing 10 hours per week before the new regulations came into force. If she accepted these new terms, then she would lose the future right to a contract guaranteeing the 30 hours per week she regularly works, leaving her still facing the possibility of a two-thirds drop in pay if her employer chose to cut her regular hours.

The experience of the introduction of the Agency Worker Regulations in 2011 is that many workers were forced onto new pay-between-assignments contracts that denied them the right to equal pay because the employer was simply able to stop offering hours under the old contract until people signed up to the new one. It is important that workers are protected from such tactics under these measures.

Many workers are already on severely stretched household budgets. Within this context, even relatively small continued fluctuations in hours (and thus pay) can make a significant difference to workers' ability to make ends meet. Official surveys[32] show that 7.5 million people live in relative poverty despite being part of a working household, of whom 2.9

---

[31] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

[32] Trades Union Congress (2026). "2.9 million children in poverty in working households." www.tuc.org.uk/news/29-million-children-poverty-working-households-tuc-response-poverty-figures

million are children. Recent analysis by the Work Foundation also found that household financial resilience is weak. Nearly one-in-four of households (24 per cent) could not afford an unexpected expense of even £850. More than one-in-three households (36 per cent) don't expect to be able to save anything at all in the year ahead.[33]

A recent TUC poll[34] of 2,344 adults in the UK, of whom 1,319 were in work, found that workers are skipping meals, cutting back on essentials, going into debt, and avoiding using their boiler to reduce energy costs:

- **Skipping meals:** Fifteen per cent of working adults have skipped a meal every day (1 per cent), most days (6 per cent) or every week (8 per cent) to cut back on spending in the last three months.

- **Food and essentials spending:** Nearly a quarter (23 per cent) of working adults said they had made large or significant cutbacks on food spending in the last 12 months. Nearly a fifth (19 per cent) said they had cut back spending largely or significantly on other essentials – such as medicine, personal hygiene products and petrol.

- **Going into debt:** One in five (21 per cent) working adults said they were struggling to afford or couldn't afford their monthly costs – with one in 10 (10 per cent) reporting going into debt most months (five per cent) or every month (5 per cent) over the last year.

- **Energy costs:** Almost a fifth (19 per cent) of working adults have reduced their use of hot water for showers and baths on most days (15 per cent) or every day (five per cent) over the last three months to reduce spending – despite this polling taking place in early summer.

Furthermore, TUC analysis of the LFS,[35] indicates that VHWs in Great Britain specifically are prominent in lower paid occupations. Nearly half (around 47 per cent) of VHWs work in just two lower paid occupations. Around one-in-three VHWs works in an elementary occupation (30.4 per cent). Around one-in-six VHWs works in a caring, leisure, and other service occupation (16.4 per cent).

People working in these lower paid occupations are also significantly more likely to experience variable-hours working than highly paid managers. Those working in caring, leisure, and other service occupations (16.0 per cent) are six times as likely as a manager (2.7 per cent) to be a VHW. Those working in elementary occupations (27.0 per cent) are ten times as likely as a manager (2.7 per cent) to be a VHW.

---

[33] Navani, A. and Wood, C. (21 July 2026). "The three key labour market challenges facing the new Government." *Opinion,* The Work Foundation. www.lancaster.ac.uk/work-foundation/news/blog/the-three-key-labour-market-challenges-facing-the-new-government

[34] YouGov/TUC-commissioned poll of 2,344 adults in the UK on 24-25 June 2026, including 1,319 people in work. The survey was carried out online. The figures have been weighted and are representative of all UK adults (aged 18+).

[35] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

Table 1: Estimated variable-hours workers by occupation

Category	Count	Proportion of variable-hours workers	Prevalence
Managers, Directors and Senior Officials	81,000	3.2%	2.7%
Professional Occupations	349,000	13.8%	4.2%
Associate Professional Occupations	202,000	8.0%	4.7%
Administrative and Secretarial Occupations	142,000	5.6%	5.0%
Skilled Trades Occupations	156,000	6.2%	9.0%
Caring, Leisure and Other Service Occupations	413,000	16.4%	16.0%
Sales And Customer Service Occupations	201,000	8.0%	11.4%
Process, Plant and Machine Operatives	210,000	8.3%	15.0%
Elementary Occupations	767,000	30.4%	27.0%

Source: TUC analysis of Labour Force Survey. Note: All count results scaled to GB variable-hours workers estimate and rounded to nearest 1,000 workers. Prevalence refers to variable-hours workers with characteristic as a proportion of all employees with the same characteristic. See Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

VHWs predominantly on low and middle incomes are not well placed to absorb the impact of reduced wages. It is therefore important that any threshold is set at a level – the TUC recommends 48 hours if one is set - to avoid creating a loophole for unscrupulous employers to evade the duty to offer a GHC reflecting workers' regular hours. Employers will otherwise be incentivised to offer contracts just above the new threshold to new recruits, as we have described.

There is also a risk that employers could pre-emptively offer their existing VHWs guaranteed hours just above the threshold to evade the new protections, even where these workers were already regularly working well above the threshold. Such a voluntary offer would mean that while these workers would be guaranteed a small number of regular hours, they could still experience significant hours volatility. Existing staff, who may not be aware of their new rights soon to be implemented, who voluntarily agreed to such contractual changes, would be giving up the more valuable rights to which they would otherwise soon be entitled.

Q1.d: Which option(s) (including any not outlined above) do you think could have an impact on the availability of additional hours for workers?

Setting a low threshold would also create perverse incentives for employers to avoid offering overtime to workers with contractual hours below and up to this threshold, as employers could seek to avoid triggering new obligations to offer guaranteed hours. This would create a high risk of making some workers worse off. Specifically, this would create an incentive to disadvantage the lowest-paid, lowest-hours workers. For example, if this threshold were set at 20 hours per week, employers would be able to offer additional hours to those contracted above this level without any risk of triggering the duty to offer a GHC. Meanwhile, they would be disincentivised from offering the same to any workers contracted up to 20 hours per week, as this could trigger the duty to offer a GHC.

The Work Foundation's recent qualitative research on the working lives of ZHC workers[36] profiled the experience of Amy, a front of house theatre assistant. Amy is on a ZHC but is working an average of 12 hours per week. She is a single parent, who worries every day about having enough income to cover her basic needs, like food, shelter, and heating. She already feels as though her senior manager shows favouritism when allocating shifts. If this threshold were set to 20 hours per week, Amy may qualify for a GHC of 12 hours per week. However, she may then be among those for whom her employer would be disincentivised from offering overtime thereafter, to avoid triggering a duty to offer her any further increase to her contractual hours and leaving her under greater financial stress.

As we will provide further detail on in our response to Question 1.e, TUC analysis of the LFS[37] indicates that BME workers, especially BME women, are more likely to be VHWs than white workers. This perverse disincentive to offer any over time to the lowest-paid, lowest hours workers is even more concerning given the experience of BME workers at work. Recent TUC polling has shown that Black workers not only experience unfair treatment in relation to their contracts and working hours, but the situation is getting worse. Our 2026 poll[38] has revealed:

- Forty per cent of Black workers reported not being given sufficient hours, an increase from 30 per cent in a similar TUC poll conducted in 2020.
- Thirty-seven per cent of Black workers say that they have not been offered overtime, compared to 30 per cent in 2020.
- Forty-one per cent of Black workers reported being kept on temporary or fixed-term contracts, having grown from 33 per cent in 2020.

Some experiences of unfair treatment at work were even worse for Black woman than Black men in the same TUC poll. Black women were more likely than Black men to report being kept on temporary contracts (44 per cent compared to 37 per cent), having requests for training turned down or development opportunities denied (38 per cent compared to 34 per cent), and being given harder or less popular tasks (46 per cent compared to 43 per cent).[39]

Black workers were also more likely than white workers to receive each type of unfair treatment at work covered by the same TUC poll, as shown below.

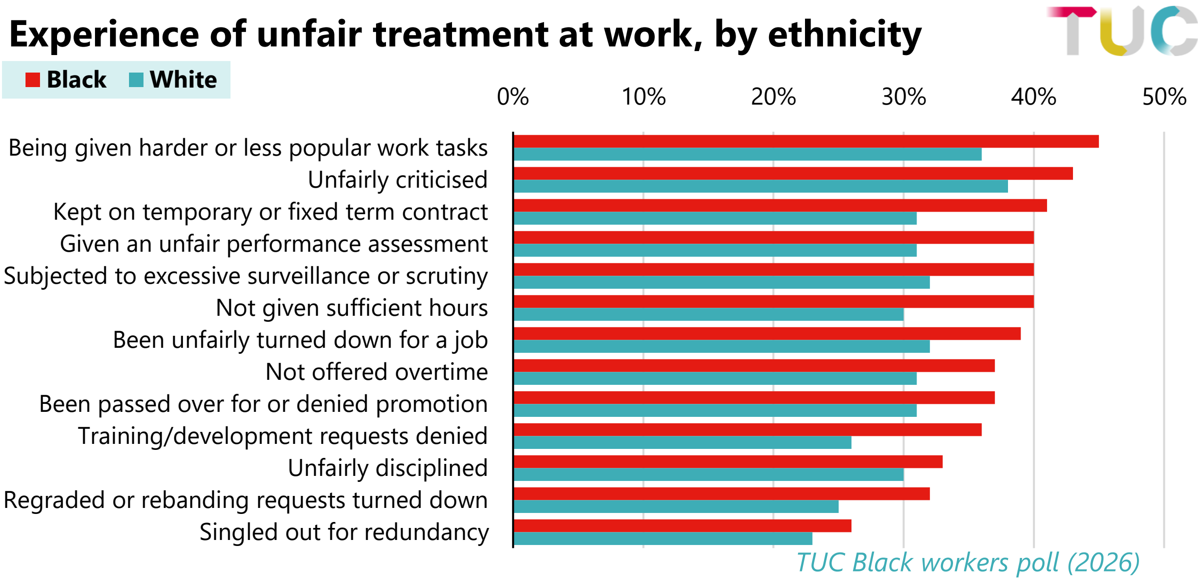
---

[36] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

[37] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

[38] TUC-commissioned poll of just under 1,600 workers in Great Britain during January 2026, including more than 1,000 Black workers and more than 500 white workers to enable comparison. Black workers is used in this analysis as an umbrella term to bring together people with a shared history. 'Black' is used in a broad political and inclusive sense to describe people in the UK who have suffered from colonialism and enslavement historically and continue to experience racism and diminished opportunities today; Trades Union Congress (24 April 2026). "No Worker Left Behind." www.tuc.org.uk/research-analysis/reports/no-worker-left-behind

[39] Trades Union Congress (24 April 2026). "No Worker Left Behind." www.tuc.org.uk/research-analysis/reports/no-worker-left-behind



Black workers were particularly more likely than white workers to report:

- having a request for training turned down or development opportunities denied (36 per cent, compared to 26 per cent)
- not being given sufficient hours (40 per cent, compared to 30 per cent)
- being kept on temporary or fixed-term contracts (41 per cent, compared to 31 per cent).[40]

If all workers were entitled to a contract reflecting their regular hours, then employers would have no incentive to treat workers differently based on the number of hours that they were contracted to work.

Q1.e: Which option(s) (including any not outlined above) do you think could have an impact on the availability of additional hours for particular groups of workers sharing a protected characteristic under the Equality Act 2010?

As previously stated, an hours threshold is unnecessary. Our preference would be not to have one. This is to ensure that all workers secure the right to a contract that reflects their actual working hours. If a threshold were going to be set, we would urge any hours threshold to be set at 48 hours per week where contracts guarantee hours on a weekly basis and the equivalent for contracts that guarantee hours over a different period (e.g. a monthly or annualised period). Anything lower than this will increasingly exclude VHWs from essential security and stability, including those with protected characteristics.

This is a particular concern as TUC analysis of the LFS[41] indicates that the majority of VHWs are women, and that BME workers, especially BME women, are more likely to be VHWs than white workers. The majority of VHWs in Great Britain—52.4 per cent—are

---

40 Trades Union Congress (24 April 2026). "No Worker Left Behind." www.tuc.org.uk/research-analysis/reports/no-worker-left-behind

41 This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

women. Some 39.1 per cent of VHWs are white women and 13.3 per cent are BME women. Additionally, BME workers, especially women, are more likely to be a variable-hours worker than white workers. Around 11.9 per cent of BME women workers and 10.8 per cent of BME men workers are VHWs, compared with around 7.8 per cent for white men and 8.5 per cent for white women workers. The disproportionate concentration of BME workers in variable hours and other forms of insecure work shows that variable hours contracts are exacerbating structural inequalities in the labour market.[42]

Table 2: Estimated variable-hours workers by sex and ethnicity

Category	Count	Proportion of variable-hours workers	Prevalence
Female	1,320,000	52.4%	9.1%
Male	1,200,000	47.6%	8.4%
BME	641,000	25.5%	11.3%
White	1,878,000	74.5%	8.1%
BME female	334,000	13.3%	11.9%
White female	986,000	39.1%	8.5%
BME male	307,000	12.2%	10.8%
White male	892,000	35.4%	7.8%

Source: TUC analysis of Labour Force Survey. Note: All count results scaled to GB variable-hours workers estimate and rounded to nearest 1,000 workers. We have aggregated all non-white (including mixed/multiple and other ethnic groups) as BME. Prevalence refers to variable-hours workers with characteristic as a proportion of all employees with the same characteristic. See Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

This analysis supports the results from recent polling by the TUC, which has examined the human cost of insecure work: unpredictable hours, cancelled shifts, inadequate sick pay, and financial strain. Far from providing the flexibility often claimed, these contracts impose insecurity and stress on workers already facing disadvantage, particularly BME workers, young people, carers and working mothers. This deepens gender and racial inequality in work and income. For example, although two-thirds (66 per cent) of workers on a ZHC reported receiving no compensation for cancelled shifts, this rose to around three-quarters for mothers on a ZHC (74 per cent) and BME workers on a ZHC (75 per cent).[43]

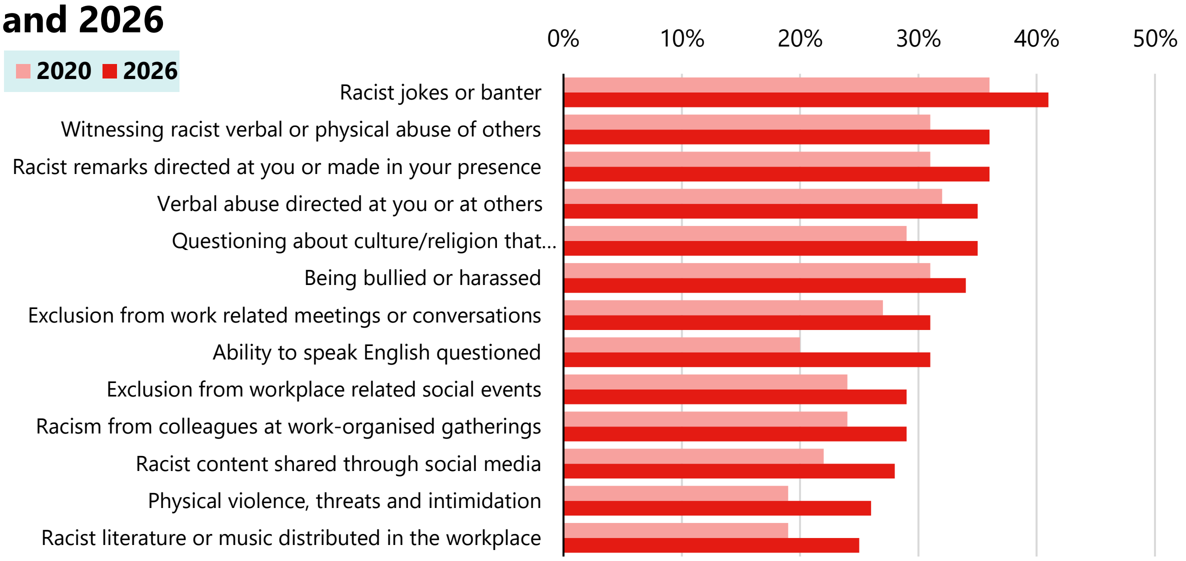
---

[42] Trades Union Congress (12 August 2024). "Number of BME people in insecure work more than doubled under the Tories." www.tuc.org.uk/news/number-bme-people-insecure-work-more-doubled-under-tories

[43] TUC-commissioned poll of just under 2,500 workers in Great Britain during May of 2024, including more than 500 in insecure roles. The definition of insecure work in this analysis included: agency workers, workers whose primary job is a ZHC, workers on a fixed term, part-time contract, and self-employed workers who are in the C2DE social class; Abdul, S. (30 September 2025). "The experience of insecure work." *Research and reports,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/experience-insecure-work

Other recent TUC polling has also highlighted that Black workers already continue to face unacceptable levels of racism and harassment at work, which also appears to have worsened between 2020 and 2026, as shown below.[44]

Experience of racism and harassment at work, 2020 and 2026



TUC Black workers poll (2026)

Black workers were also significantly more likely than white workers to face each form of harassment or racist behaviour covered by the same TUC poll. Specifically, Black workers were around twice as likely as white workers to:

- Face questioning about their culture or religion in a way that is offensive or humiliating (35 per cent compared to 18 per cent);
- Have their ability to speak English questioned (31 per cent compared to 16 per cent); and
- Have racist remarks directed at them or hear them said in their presence (36 per cent compared to 19 per cent).[45]

This is a particular worry given the known relationship between insecure work and workers' power in the workplace. For example, fast food chain McDonald's, whose outlets reportedly employ 89 per cent of their workers in the UK on ZHCs, came under scrutiny last year when a ZHC worker made allegations of being pressured to exchange sex for shifts.[46] Whether a ZHC, agency, or other variable-hours worker, the imbalance of power created by insecure work also leaves workers less able to challenge racial abuse or discrimination. If the hours threshold were set below full-time hours, significant insecurity and reduced bargaining power will persist and will make wider discriminatory treatment more likely.

---

[44] Trades Union Congress (24 April 2026). "No Worker Left Behind." www.tuc.org.uk/research-analysis/reports/no-worker-left-behind

[45] Trades Union Congress (24 April 2026). "No Worker Left Behind." www.tuc.org.uk/research-analysis/reports/no-worker-left-behind

[46] Trades Union Congress (7 January 2025). "McDonalds CEO has 'serious questions to answer' over 'predatory' use of zero-hours contracts." www.tuc.org.uk/news/mcdonalds-ceo-has-serious-questions-answer-over-predatory-use-zero-hours-contracts

Furthermore, rather than giving mothers and carers value flexibility to fit work around their commitments, TUC polling shows that variable hours contracts can actually make this balance harder. Our poll showed that mothers (35 per cent) and carers (38 per cent) on ZHCs were more likely than those not on ZHCs (22 per cent and 20 per cent respectively) to often find it hard to manage care alongside their work.[47] This puts paid to the idea that ZHCs are the best way to help working parents and carers balance paid work and unpaid caring commitments. This is supported by qualitative analysis. The Work Foundation's report *In Limbo*[48] illustrates the struggles that ZHC workers face with maintaining personal relationships, managing caring responsibilities, and scheduling healthcare appointments due to the continued insecurity. An hours threshold set below full-time hours would leave many workers unable to securely plan their lives.

TUC analysis of the LFS[49] also indicates that young workers are two-to-three times more likely to be VHWs than older workers of working age. Around 20 per cent of workers aged 16-to-24 are VHWs, compared to just 6.2 to 8.4 per cent of workers up to the state pension age, as shown below.

Table 3: Estimated variable-hours workers by age band (January to March 2026)

Category	Count	Proportion of variable-hours workers	Prevalence
16-24	680,000	27.0%	20.0%
25-34	482,000	19.1%	6.9%
35-44	418,000	16.6%	6.2%
45-54	388,000	15.4%	6.7%
55-64	398,000	15.8%	8.4%
65+	153,000	6.1%	14.0%

Source: TUC analysis of Labour Force Survey. Note: All count results scaled to GB variable-hours workers estimate and rounded to nearest 1,000 workers. Prevalence refers to variable-hours workers with characteristic as a proportion of all employees with the same characteristic. See Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

This reinforces previous TUC analysis from late 2024 that showed that young workers (aged 16-24) in the UK were almost four times as likely as the wider workforce to be employed on a

---

47 TUC-commissioned poll of just under 2,500 workers in Great Britain during May of 2024, including more than 500 in insecure roles. The definition of insecure work in this analysis included: agency workers, workers whose primary job is a ZHC, workers on a fixed term, part-time contract, and self-employed workers who are in the C2DE social class; Trades Union Congress (30 August 2024). "Over 8 in 10 zero-hours contract workers want regular hours – TUC poll reveals." www.tuc.org.uk/news/over-8-10-zero-hours-contract-workers-want-regular-hours-tuc-poll-reveals

48 Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

49 This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

ZHC.[50] The official ONS publication on ZHC workers demonstrates a similar relationship: in January to March 2026, 12.7 per cent of young people (aged 16-24) in employment in the UK were on a ZHC, compared to just 3.6 per cent of all people in employment.[51]

Some employers may argue that much of this reflects an active choice by students who value flexibility in their working hours. Where that is genuinely the case, the Employment Rights Act 2025 already allows workers to choose to keep their existing contract. However, recent TUC polling has shown that around four in five students on ZHCs (80 per cent) reported that they had experienced difficulties managing studying and education alongside their work. The poll further revealed that even among the minority of ZHC workers who reported working in this way because of their need for flexibility (for care or for study) – six in 10 (61 per cent) – would prefer a contract with guaranteed shifts (compared to less than a quarter, 23 per cent of this group, for whom this arrangement would not be preferable).[52]

Similarly, recent polling by the Young Women's Trust has revealed that more than half (54 per cent) of young women and nearly half (48 per cent) of young men work above their contracted hours. Yet nearly seven-in-ten (68 per cent) of young people responding to the survey wanted more regular or predictable hours.[53]

Recent TUC research has also illustrated that insecure work has grown much faster than secure employment, with increased stress being placed on workers already facing disadvantage, including young people.[54] Poor-quality work, including insecure hours and low pay, is shown to be one of the primary factors driving poor mental health amongst young people – one of the risk factors for becoming NEET (not in education, employment and training).[55] The huge long-term rise in rates of NEET young people is a stark demonstration of structural failures in the labour market – including persistent regional economic inequalities – and over a decade of cuts to education, health and social security systems before the 2024 election.

---

[50] Trades Union Congress (18 Nov 2024). "TUC analysis shows government's Make Work Pay commitments could be lifechanging for young workers." www.tuc.org.uk/news/tuc-analysis-shows-governments-make-work-pay-commitments-could-be-life-changing-young-workers

[51] Office for National Statistics (ONS), published 19 May 2026, ONS website, dataset www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/emp17peopleinemploymentonzerohourscontracts/current

[52] Trades Union Congress (30 August 2024). "Over 8 in 10 zero-hours contract workers want regular hours – TUC poll reveals." www.tuc.org.uk/news/over-8-10-zero-hours-contract-workers-want-regular-hours-tuc-poll-reveals

[53] Young Women's Trust (18 March 2025). "Living precariously: Young women's experiences of insecure work." www.youngwomenstrust.org/our-research/living-precariously/

[54] Abdul, S. (2025). "The experience of insecure work." *Research and reports,* Trade Union Congress www.tuc.org.uk/research-analysis/reports/experience-insecure-work

[55] Pierce, M. et al. (2025). "Understanding drivers of recent trends in young people's mental health." *Research brief,* Youth Futures Foundation. https://youthfuturesfoundation.org/wp-content/uploads/2025/07/Understanding-drivers-of-recent-trends-in-young-peoples-mental-health-July-2025-final.pdf; Marmot, M. (2010). "Fair society, health lives: The Marmot Review." *Strategic Review of Health Inequalities in England post-2010*, The Marmot Review. www.parliament.uk/globalassets/documents/fair-society-healthy-lives-full-report.pdf

As we raised in our submission to the Milburn Review,[56] TUC-commissioned analysis by Timewise found that a quarter (27 per cent) of workers who are economically inactive due to sickness are 16 to 39 years old. This analysis further found that the three sectors with the highest volumes of workers moving into economic inactivity due to ill-health are also the sectors where young people are most likely to work: wholesale and retail, food and accommodation, and health and social care.[57] This suggests that rather than providing a gateway into work, sectors with large numbers of VHWs are actually driving workers out of the labour market.

In a similar vein, TUC analysis of the LFS[58] overlaps with the industries where the largest proportions of VHWs work. Hospitality (accommodation and food services) workers make up the largest proportion of VHWs overall (17.8 per cent). This is closely followed by health and social work (16.6 per cent), wholesale, retail, and repair of vehicles (12.5 per cent), and education (9.6 per cent).

---

[56] Arkright, A. and Klair, A. (23 May 2026). "Young People and Work Report: Call for Evidence." *Consultation response,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/young-people-and-work-report-call-evidence
[57] Timewise (2026). "Work that works for the next generation: The role of job quality in tackling youth inactivity." Unpublished.
[58] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

Table 4: Estimated variable-hours workers by industry (January to March 2026)

Category	Count	Proportion of variable-hours workers
Manufacturing	173,000	6.8%
Construction	65,000	2.6%
Wholesale, retail & repair of vehicles	316,000	12.5%
Transport and storage	162,000	6.4%
Accommodation and food services	449,000	17.8%
Information and communication	49,000	1.9%
Professional, scientific & technical activities	83,000	3.3%
Admin and support services	144,000	5.7%
Public admin and defence	146,000	5.8%
Education	243,000	9.6%
Health and social work	418,000	16.6%
Arts, entertainment and recreation	136,000	5.38%
Other service activities	48,000	1.90%
Other industry	88,000	3.50%

Source: TUC analysis of Labour Force Survey. Note: All count results scaled to GB variable-hours workers estimate and rounded to nearest 1,000 workers. "Other industry" includes those with fewer than 10,000 estimated variable-hours workers each overall (agriculture, mining, real estate, households as employers, and extraterritorial organisations) or covered at lower threshold levels (energy, water, and financial services). See Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

TUC analysis of the LFS[59] indicates that disabled workers are more likely to be VHWs than non-disabled workers. Around 9.9 per cent of disabled workers are variable-hours workers, compared to 8.5 per cent of non-disabled workers. This compounds the persistent and widespread barriers that disabled workers are already known to face, despite longstanding legal protections. Recent TUC polling has highlighted that nearly half (49 per cent) of disabled workers experienced bullying or harassment at work in the past year, such as intrusive questions, offensive questions, and even verbal and physical abuse.[60] This is again a worry given the clear relationship between insecure work and workers' power in the

[59] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

[60] TUC-commissioned Opinium Research poll of 1,000 adult disabled workers in Great Britain. Survey responses were collected from 22 January to 4 February 2025. Participants were given a qualifying question to ensure that they would be considered disabled under the Equality Act 2010; Roache, Q. (June 2025). "Bullying, harassment and discrimination of Disabled people in the workplace." *Research and reports*, Trades Union Congress. www.tuc.org.uk/research-analysis/reports/bullying-harassment-and-discrimination-disabled-people-workplace

workplace. The imbalance of power created by variable-hours working also leaves workers less able to challenge disability-related abuse or discrimination.

Table 5: Estimated variable-hours workers by disability status (January to March 2026)

Category	Count	Proportion of variable-hours workers	Prevalence*
Disabled	489,000	19.4%	9.9%
Non-Disabled	2,030,000	80.6%	8.5%

Source: TUC analysis of Labour Force Survey. Note: All count results scaled to GB variable-hours workers estimate and rounded to nearest 1,000 workers. Workers categorised by meeting the Equality Act 2010 definition or not. See Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

A recent TUC poll of disabled workers in Great Britain found that one of the two most frequent issues reported by disabled people at work is not getting reasonable adjustments. Thirty-four per cent of respondents reported this issue, the same proportion that reported having their disability leave treated as sick leave.[61] These issues are likely exacerbated by the insecurity of variable-hours working. For example, the NEU reports that a considerable number of disabled workers have been left with no choice but to become supply teachers, as a result of schools' failure to provide reasonable adjustments, particular for those with invisible disabilities.

Setting the hours threshold as high as possible will ensure that workers with protected characteristics are not disadvantaged by being excluded from essential security and stability that all workers should enjoy. All workers deserve the right to a contract that reflects their actual working hours.

Q2.a: Agency workers should not be entitled to guaranteed hours offers when (choose one of the two options below):

- "they already have a contract guaranteeing hours above the threshold (for example, by their agency) regardless of which hirer these hours are to be worked for" or
- "they already have a contract guaranteeing hours above the threshold specifically in respect of work to be done for one hirer (for example, by their agency)]"

The TUC's view is that the latter option gives the most appropriate protection for agency workers.

Q2.b: Please explain your answer

[61] TUC-commissioned Opinium Research poll of 1,000 adult disabled workers in Great Britain. Survey responses were collected from 22 January to 4 February 2025. Participants were given a qualifying question to ensure that they would be considered disabled under the Equality Act 2010; Roache, Q. (May 2025). "Disabled workers' access to reasonable adjustment." *Research and reports*, Trades Union Congress. www.tuc.org.uk/research-analysis/reports/disabled-workers-access-reasonable-adjustment

As the consultation notes, most agency workers are not currently expected to have contractually guaranteed hours, although some do, for example by their agency. For many employers, agency workers are used in much the same way as directly engaged zero-hours workers to allow them to adjust employment at short notice. The Taylor Review found that "too many employers and businesses are relying on zero hours, short-hours or agency contracts, when they could be more forward thinking in their scheduling."[62] This suggests that many of the anticipated impacts of the plans to end one-sided flexibility, including greater investment in workforce planning, would be undermined if agency workers were not included. We are therefore pleased that agency workers have been included. It is essential that the new rights are applied to them on a consistent basis with directly engaged workers, to avoid employers increasing their use of agency workers to maintain one-sided flexibility.

The prevalence of agency workers with contractually guaranteed hours should also increase in the future, where qualifying agency workers exercise their new rights. It is therefore important to carefully consider the implications of the choice of how to apply the hours threshold to agency workers. As stated above, an hours threshold is unnecessary. Our preference would be not to have one. But if one is set, we urge this to be 48-hours per week.

Within that context, our preference is for any hours threshold that may be set to apply to agency workers with a contract in respect of work to be done for one hirer. This is consistent with our aim to ensure universal access to the right to guaranteed hours for VHWs because it is the least restrictive of the two options. It would exclude more agency workers from the right to guaranteed hours if their contracted work across multiple hirers were to be aggregated.

It would also be administratively difficult for workers and employers to aggregate work across multiple hirers and would therefore be harder to enforce.

For agency workers who work for multiple hirers, for example supply teachers doing short-term assignments in different schools, meeting the regularity test discussed later in this response, would be difficult, if not impossible, to meet if based upon work done for each individual hirer. This is just one example of why a regularity test is unworkable, especially for agency workers. As we have set out in our response to Question 10.a., it is the TUC's strong view that no regularity test should be set.

It is also vital that regulations take account of the role of umbrella companies, which are often used by agencies to formally employ the workers they send on assignments. It is vital that the use of these does not provide a loophole allowing agencies and end hirers to avoid their responsibilities. To be discussed in greater detail in our response to Question 30.b., our preference was for both agencies and end-hirers to also have joint and several liability for the duty to offer agency workers a guaranteed hours contract.

Q3.a: For agency workers, which of the following options should the hours threshold be:

As stated previously, an hours threshold is unnecessary. Our preference is to not have one. This would ensure that all workers have the right to a GHC that reflects their regular hours of

[62] Taylor, M. (2017). "Good work: the Taylor review of modern working practices." www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices

work. However, as the Employment Rights Act 2025 provides for the government to set one, our preference would be for any hours threshold that is set to be set as high as possible. Therefore, we urge any hours threshold to be set at 48-hours per week, or equivalent for contracts that guarantee hours over a monthly or annualised period for agency workers as well as directly engaged workers.

Q3.b: Please explain your answer

Our justification for this response is the same as we have stated for this threshold for directly engaged workers. Furthermore, having the same threshold rules for directly engaged as well as agency workers is the simplest and fairest approach. Workers, whether directly engaged or with an agency, need and deserve security and stability of their hours and income.

Previous TUC analysis about agency workers challenged some of the misconceptions about the nature of agency work.[63] As we have noted in our submission to the earlier consultation on the *Application of zero-hours contracts measure to agency workers,* agency work is a very insecure form of employment, in which workers typically have no guarantee of work or even pay rates. They are often ineligible for key employment rights and where they are eligible, they often struggle to enforce these rights. Yet, unions report that employers often continue to use agency contracts, even where work is stable and predictable.[64]

For example, in 2023 RMT surveyed workers employed by two agencies to work on London Underground's track maintenance teams. Of these, 94 per cent of the workers surveyed had worked on London Underground for more than five years. They averaged 4.5 shifts per week and a 35-hour week. And 84 per cent of the workers said they would rather have guaranteed hours, even if it meant less flexibility for them.[65]

A similar picture is seen in further education colleges and schools, where unions report that often staff are engaged on casual forms of contract for predictable forms of work. Such has been the concern about conditions in education that supply teachers were specifically referenced in the UK Labour Market Enforcement Strategy 2019/20.[66]

Some hirers and agencies argue that agency work is a choice made by workers who value flexibility and control over a more secure employment relationship. Where that is genuinely the case, the Employment Rights Act 2025 allows workers to choose to keep their existing contract.

---

[63] Trades Union Congress (4 June 2026). "Make Work Pay: Modernising the Agency Work Regulatory Framework." *Consultation response,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/make-work-pay-modernising-agency-work-regulatory-framework

[64] Trades Union Congress (2 December 2024). "Application of zero-hours contracts measures to agency workers." www.tuc.org.uk/research-analysis/reports/application-zero-hours-contracts-measures-agency-workers

[65] RMT (26 May 2023). "Why the Mayor must insource safety critical agency track workers on the Tube." www.rmt.org.uk/news/public-document-library/why-the-mayor-must-insource-safety-critical-track-workers-now/rmt-policy-briefing-why-the-mayor-must-insource-safety-critical-track-workers-now-260523.pdf

[66] Metcalf, D. (July 2019). "United Kingdom Labour Market Enforcement Strategy 2019/20." www.gov.uk/government/publications/labour-market-enforcement-strategy-2019-to-2020

However, in our submission to the recent consultation on *Modernising the Agency Work Regulatory Framework*, we called this argument into question for many agency workers.[67] Looking at the January – March 2026 LFS data now, we find the following similar results specifically for agency workers in Great Britain.[68]

- **Nearly seven in ten (68.8 per cent) agency workers report working full-time, rising to three-quarters (75.3 per cent) for permanent agency workers.** For temporary agency workers, the figure is nearly six in ten (59.5 per cent). This suggests that for most agency workers, flexibility of hours is still not a choice, comfortably fitting around other life commitments, but that their jobs are instead their primary source of earnings.
- **More than nine in 10 (93.2 per cent) of agency workers report not being in full-time education.** This figure is a broadly similar 96.4 per cent for permanent agency workers and 88.6 per cent for temporary agency workers. This further emphasises that agency working is not predominantly a way for students to fit work around their studies.
- **Nearly two-thirds (64.5 per cent) of agency workers report being at their current employer for over a year. Nearly half (47.5 per cent) of agency workers report being at their current employer for two or more years. Shockingly, more than one-in-ten (11.1 per cent) of agency workers report being at their current employer for over a decade.** These figures are even higher for permanent agency workers, with over three-quarters (75.7 per cent) reporting being at their current employer for more than a year, nearly six in 10 (59.0 per cent) for more than two years, and nearly one-in-6 (16.4 per cent) for over a decade. This shows that for many agency workers, their typical work is sustained akin to permanent employment. They should have the financial security of guaranteed hours like other workers.

Keeping the threshold the same for directly engaged and agency workers is vital for anti-avoidance. If a lower threshold was set for agency workers than for directly engaged workers, this would create an incentive for employers to recruit through an agency rather than directly to evade the duty to provide a GHC. For example, NHS staff bank workers, such as those represented by our affiliates, Chartered Society of Physiotherapy, GMB, UNISON, Unite, and other unions, may be engaged directly through local NHS Trusts, by employment agencies,

[67] Trades Union Congress (4 June 2026). "Make Work Pay: Modernising the Agency Work Regulatory Framework." *Consultation response,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/make-work-pay-modernising-agency-work-regulatory-framework

[68] TUC analysis of agency workers in LFS data is restricted to Great Britain. We define temporary agency workers as employees in their main job who reported that this job was not permanent in some way and that they were working for an employment agency; permanent agency workers as employees in their main job who reported that this job was permanent and that they were an agency worker; agency workers as temporary or permanent agency workers thus defined. Percentages of each worker group meeting specified condition based on members of the worker group who provided information on the condition (i.e. the valid per cent); Office for National Statistics. (2026). *Quarterly Labour Force Survey, January - March, 2026*. [data collection]. UK Data Service. SN: 9659, DOI: http://doi.org/10.5255/UKDA-SN-9569-1

or by NHS Professionals.[69] It is vital that these essential front-line workers receive the same rights, regardless of the mechanism by which they are engaged.

Q4.a: How long should the initial reference period be for directly engaged workers?

We support the government's preferred option of 12 weeks for the initial reference period for directly engaged workers.

Q4.b: Please explain your answer

Recent TUC polling on the experience of insecure work revealed that a large majority of respondents felt very or somewhat positive about the statement "All workers, including those on casual or zero-hours contracts, should be entitled to a contract that reflects their normal hours of work once they have worked for the same employer for 12 weeks." This was the case for respondents on ZHCs specifically (74 per cent), in insecure work (67 per cent), and in secure work (76 per cent).[70]

Twelve weeks is long enough to give a representative view of the working hours that a job requires. This is also why 12 weeks is a familiar reference point in employment law for normalising someone's status in the workplace. Under the *Agency Worker Regulations 2010*, agency workers are entitled to equal treatment with directly employed workers after a reference period of 12 weeks. This means that agency workers must be given equal basic working conditions and employment conditions, including equal pay, after a 12-week period.[71] An initial reference period for directly engaged workers of 12 weeks is aligned with this principle.

Recognising the commonly irregular working patterns of agency workers, these regulations provide flexibility to allow agency workers to achieve the entitlement. When an agency worker has a break of no more than six weeks for any reason (including most forms of contractual or statutory leave, e.g. sickness or holiday) and returns to the same role with the same hirer, this usually pauses their 12-week reference period or in the case of certain types of leave (e.g. maternity, adoption, or neonatal care leave), the break counts towards the period. The reference period is not reset.[72] Consistent with this principle aimed to recognise the reality of irregular working patterns, measurement of the initial reference period of 12 weeks for directly engaged workers should function in the same manner.

---

[69] NHS Professionals (2026). "Shape your NHS career with flexible, rewarding work." www.nhsprofessionals.nhs.uk/

[70] Abdul, S. (30 September 2025). "The experience of insecure work." *Research and reports,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/experience-insecure-work

[71] UK Government (6 February 2026). "Make Work Pay: Modernising the Agency Regulatory Framework." *Consultation document*, UK Government. www.gov.uk/government/consultations/make-work-pay-modernising-the-agency-work-regulatory-framework

[72] Acas (2026). "Agency workers: Your employment rights after 12 weeks." www.acas.org.uk/agency-workers/understanding-your-employment-rights-after-12-weeks

Q5.a: How long should the initial reference period be for agency workers?

The initial reference period for agency workers should also be 12 weeks.

Q5.b: Please explain your answer

Our justification for this response is the same as we have stated for this initial reference period for directly engaged workers. Having the same initial reference period, measured the same way, for directly engaged as well as agency workers is the simplest and fairest approach. It would therefore be the most administratively simple option for this reference period to also last for the same 12-week reference period that hirers already need to monitor for compliance with the *Agency Worker Regulations 2010* equal treatment entitlement.

The average length of agency work assignments was reportedly 15 weeks in 2022, 22 weeks in 2023 and 18 weeks in 2024.[73] This indicates that many agency workers would benefit from new protections on the basis of a 12-week reference period. However, we would urge the government to keep this under review to ensure that agency workers are benefiting from this important right.

As discussed previously, agency workers are already subject to another 12-week reference period for equal treatment with directly employed workers under the *Agency Worker Regulations 2010*, with which the guaranteed hours reference period should be consistent. As also recognised in the Agency Workers regulations, a loophole could arise in the calculation of the 12-week reference period if agencies and end hirers were permitted to structure assignments so that the same worker could undertake multiple work placements (each lasting fewer than 12 weeks) with the same hirer in close succession. The same anti-avoidance measures as already exist for the right to equal treatment[74] should be put in place for the right to guaranteed hours to avoid any loopholes in the calculation of this 12-week reference period.

Q6.a: How long do you think subsequent reference periods should be for directly engaged workers?

Subsequent reference periods for directly engaged workers should also be 12 weeks and continue to follow the same principle of measurement as under the *Agency Worker Regulations 2010* equal treatment entitlement that we have described above.

Q6.b: Please explain your answer

As stated above, 12 weeks is a sufficient period to give a representative view of the working hours that a job requires. Keeping subsequent reference periods for directly engaged

---

[73] Recruitment and Employment Confederation (8 December 2025). “Recruitment sector contributes more than £40 billion a year to the UK economy despite tough job market.” *Press release*, REC. www.rec.uk.com/our-view/news/press-releases/recruitment-sector-contributes-more-40-pounds-billion-year-uk-economy-despite-tough-job-market

[74] As per section nine of the *Agency Worker Regulations 2010* www.legislation.gov.uk/uksi/2010/93/regulation/9

workers to the same 12 weeks, measured the same way, would ensure that workers have a consistent opportunity for a more stable contract that reflects their working hours, and which is responsive to changes when those regular working hours increase.

It is right that the government's consultation document confirms that, "subsequent reference periods cannot be used to reduce the hours already guaranteed in a worker's contract." Allowing this would both undermine the concept of a contract and the government's objective to provide workers with increased security and stability in their hours and pay.

Keeping subsequent reference periods to the same 12 weeks would also avoid creating a loophole that would otherwise allow employers to game the system. If the subsequent reference periods were longer, some employers, for example, might keep workers' hours artificially low during the initial 12 weeks as means to then extend the length of time during which they could keep workers on highly variable arrangements. Others might manipulate any rules around regularity in a similar manner. For example, they could limit the number of weeks that they scheduled a worker to work or the amount of overtime offered during the initial 12 weeks to then extend the length of time they could expect one-sided flexibility from their worker.

It is also possible that some workers presented with a GHC might not fully understand it or might reject it, while on reflection decide it is something they might benefit from. It is therefore essential, particularly during the first year of employment, that eligible workers are given the opportunity to move to a GHC every 12 weeks.

Taking this approach would be consistent with the government's aims to both establish a baseline of security and stability for workers and provide for two-way flexibility. At present, VHW workers often bear all the risk of uncertain demand.

Q7.a: Should each reference period begin as soon as the previous one finishes?

Yes. Each reference period should begin as soon as the previous one finishes.

Q7.b: Please explain your answer

The TUC strongly supports the government's commitment in its *Plan To Make Work Pay* to "end 'one sided' flexibility and ensure all jobs provide a baseline level of security and predictability, banning exploitative zero-hours contracts and ensuring everyone has the right to have a contract that reflects the number of hours they regularly work, based on a twelve-week reference period."[75] A gap between reference periods is not consistent with this aim.

Work does not pause or stop, nor do a worker's basic living expenses (e.g. housing, rent, groceries, heating) disappear just because an GHC offer has been made and is being considered by the worker. Therefore, there is no reason for a pause in assessing the regular hours of work at this point. Each reference period should immediately follow on from the next ensure that workers have a consistent opportunity for a more stable contract that

---

[75] The Labour Party (2024). "Labour's plan to make work pay: Delivering a New Deal for Working People."
https://labour.org.uk/wp-content/uploads/2024/05/LABOURS-PLAN-TO-MAKE-WORK-PAY.pdf

reflects their working hours, and which is responsive to changes when those regular working hours increase. This would also encourage good workforce planning, as good employers should anticipate their capacity needs appropriately and be prepared to meet them.

There is a strong risk that a pause between reference periods would provide an extra period in which an employer could employ a worker on as many hours as they like without affecting the test for a guaranteed hours contract. This is a period in which the worker would face continued insecurity. It would be hugely undesirable to insert potential loopholes like this into the guaranteed hours regime.

Q8.a: How long do you think subsequent reference periods should be for agency workers?

Subsequent reference periods for agency workers should also be 12 weeks and continue to follow the same principle of measurement as under the *Agency Worker Regulations 2010* equal treatment entitlement that we have described above.

Q8.b: Please explain your answer

Our justification for this response is the same as we have stated for subsequent reference periods for directly engaged workers. Furthermore, having the same subsequent reference period rules for directly engaged as well as agency workers is the simplest and fairest approach. VHWs, whether directly engaged or employed via an agency, need and deserve security and stability of their hours and income. Keeping the threshold the same for directly engaged and agency workers is also the best anti-avoidance approach. If a lower threshold was set for agency workers than for directly employed workers, this would create a loophole. Employers would be incentivised to recruit through an agency rather than directly to evade the duty to provide a GHC.

Q9.a: Should each reference period begin as soon as the previous one finishes?

Yes. Each reference period should begin as soon as the previous one finishes.

Q9.b: Please explain your answer

Our justification for this response is the same as we have stated for having no gaps between reference periods for directly engaged workers. Furthermore, having the same reference period rules for directly engaged as well as agency workers is the simplest and fairest approach. It is also an important anti-avoidance approach. If a gap between reference periods is regulated for agency workers but not for directly employed workers, this would create a loophole whereby employers would be incentivised to recruit through an agency rather than directly to evade the duty to provide a GHC.

Q10.a: Based on the two options highlighted above for directly engaged workers, select below which option is preferred.

It is the TUC's strong view that no regularity test should be set. It adds unnecessary complexity, creating a risk of vulnerable workers falling through the cracks and a loophole for employers to exploit.

However, we recognise the intention in the consultation paper to set a regularity test. If one is set, our preference is Option A: a weekly distribution requirement.

Q10.b: Please explain your answer

In line with the government's commitment to end one-sided flexibility for all workers, the eligibility requirements for the right to guaranteed hours should be kept as simple as possible. The simplest option would be not to set a regularity test.

Such a test would create unnecessary complexity making it harder for employers and workers to understand the system and potentially adding to the administrative burden. It would create a risk of workers falling through the cracks in the system because their working patterns didn't quite match the test. It would also provide a target for employers to consider when seeking to put in place working arrangements that don't trigger the new rights. We urge policymakers to keep in mind the importance of reducing the number of potential loopholes when writing this legislation.

The government does not need to set a regularity test. The Employment Rights Act 2025 specifies in Section 27BA, *Rights for qualifying workers to be offered guaranteed hours*, sub-section (3)(d) that directly engaged workers are qualified workers where "the reference period hours satisfy such conditions…as to number, regularity, or otherwise as are specified." The corresponding final explanatory notes to the Employment Rights Act 2025 similarly shows that the legislation allows but does not require a regularity test.[76]

However, we recognise the intention in the consultation paper to set a regularity test. If one is set, our preference is Option A: a weekly distribution requirement. Option A is the simpler, more straightforward of the two options. This will help to maximise the number of workers who are supported and make eligibility for the new right easier to understand. Adhering closer to the principle of simplicity will also reduce the risk of creating unintended loopholes.

In a scenario where the government introduces a regularity test, the reference period and the regularity test should cover the same period (i.e. the same 12 weeks) to prevent excessive complexity in policy design.

We recognise that "the Act includes a provision that would allow periods of time during which a worker has not worked for a specified reason – such as sick leave or annual leave – to be taken into account when determining whether a worker has qualified for an offer…" We agree in principle that workers should not be penalised or disadvantaged for taking statutory or contractual leave to which they are entitled. These are periods which continue to count towards an employee's continuous employment record for the purposes of numerous other employment rights.[77]

---

[76] Department for Business & Trade (2025). "Explanatory Notes – Employment Rights Act 2025." www.legislation.gov.uk/ukpga/2025/36/pdfs/ukpgaen_20250036_en.pdf
[77] UK Government (2026). "Continuous employment." www.gov.uk/continuous-employment-what-it-is

However, our above stated proposals would align initial and subsequent reference periods for directly employed and agency workers to 12 weeks, measured in the same way as the 12-week reference period for equal treatment under the *Agency Worker Regulations 2010*. These regulations mean that agency workers must be given equal basic working conditions and employment conditions, including equal pay, after a 12-week period.[78] Recognising the commonly irregular working patterns of agency workers, these regulations provide flexibility to allow agency workers to achieve the entitlement. When an agency worker has a break of no more than six weeks for any reason (including most forms of contractual or statutory leave, e.g. sickness or holiday) and returns to the same role with the same hirer, this usually pauses their 12-week reference period or in the case of certain types of leave (e.g. maternity, adoption, or neonatal care leave), the break counts towards the period. The reference period is not reset.[79]

Therefore, under our alignment proposal, most periods of statutory or contractual leave would not be part of any reference period. Instead, the clock would be paused while the worker was on leave and then restarted once they returned to work, allowing workers who take leave over a 12-week calendar period to qualify by working 12 weeks over a longer period that includes leave. This protects workers who take leave from losing important employment rights.

Therefore, in the scenario in which a regularity test is introduced, the same approach should be followed.

This means that:

- The reference period and the period over which regularity is assessed for any individual worker should be the same (i.e. the same 12 weeks).
- Most periods of statutory or contractual leave would pause the clock of this period.
- The only periods of statutory or contractual leave that would be included would be those that are also included in the 12-week reference period for equal treatment under the *Agency Worker Regulations 2010* (e.g. maternity, adoption, or neonatal care leave).[80]
- Any weekly distribution requirement as a test for regular working should treat any periods of statutory or contractual leave that do form part of the initial or subsequent reference periods as worked.

Even with the simpler of the two options for setting a regularity test, there is a significant risk that insecure workers may feel unable or be unable to exercise their rights. For instance, recent polling by the Young Women's Trust revealed that almost half (45 per cent) of young women have put up with unfair treatment while working in insecure work as they were concerned that challenging it would mean not getting scheduled for the hours they

[78] UK Government (6 February 2026). "Make Work Pay: Modernising the Agency Regulatory Framework." *Consultation document*, UK Government. www.gov.uk/government/consultations/make-work-pay-modernising-the-agency-work-regulatory-framework
[79] Acas (2026). "Agency workers: Your employment rights after 12 weeks." www.acas.org.uk/agency-workers/understanding-your-employment-rights-after-12-weeks
[80] Acas (2026). "Agency workers: Your employment rights after 12 weeks." www.acas.org.uk/agency-workers/understanding-your-employment-rights-after-12-weeks

needed.[81] Imposing a regularity test may increase the current power imbalance and leave young women workers feeling even less able to raise concerns. An employer might simply assert to a worker, if asked about the failure to produce a guaranteed hours offer, that the worker hadn't met the regularity test. Many workers are likely to feel unable to challenge such an assertion, in part due to fears about the repercussions.

It may also be difficult for many vulnerable workers, especially ZHC workers, to use their own records to demonstrate their compliance with even a simple regularity test. Many workers experience the work-life chaos described in the Work Foundation's report *In Limbo*, including frequent last-minute allocation or cancellation of shifts, making it hard to keep track of hours. Furthermore, ZHC workers also reported feeling unable to stand up for their rights already, for instance, with Jenna, a waitress, noting:

> "My contract at the pub exists apparently but I've never seen it. I've seen someone leave and pay withheld if they don't do a certain amount of shifts, I have holiday pay but I don't know how much as it's not accurate on the portal, and we only got put into pension a few months ago, which I thought was a legal requirement but if you challenge this it gets weird and you lose shifts."[82]

If the government proceeds with a regularity test, the government should require employers to provide workers with accurate electronic information and records, containing details of their working hours and which would provide workers with an official record to demonstrate where the regularity test had been met.

Q11.a: What should the minimum number of weeks be in which a directly engaged worker is required to work during the reference period to meet the weekly distribution requirement?

As stated above, any regularity test will create unnecessary complexity. The TUC opposes one being set. If one is set, the minimum number of weeks in which a directly engaged worker should be required to work during the reference period to meet the weekly distribution requirement should be at most six weeks across a 12-week initial reference period. We support the government's preference for a 12-week initial reference period. We think that the government should rethink the suggestion for the options to scale proportionally for longer reference periods. This is most importantly because we do not agree that there should be longer reference periods. However, if longer reference periods were to be implemented, allowing the options to scale could exclude some workers who would otherwise gain protections.

Q11.b: Please explain your answer

Setting the minimum number of weeks in which a directly engaged worker should be required to work during the reference period to six weeks across a 12-week initial reference

---

[81] Young Women's Trust (18 March 2025). "Living precariously: Young women's experiences of insecure work." www.youngwomenstrust.org/our-research/living-precariously/

[82] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

period is intended to make the right as inclusive as possible for those with irregular working patterns. This is also intended to close potential unintended loopholes, whereby employers might otherwise be tempted to deny workers hours during one or a small number of weeks during the 12-week reference period to evade the duty to offer a GHC.

As mentioned previously, under the *Agency Worker Regulations 2010*, agency workers are entitled to equal treatment with directly employed workers after a reference period of 12 weeks. This means that agency workers must be given equal basic working conditions and employment conditions, including equal pay, after a 12-week period.[83] Recognising the commonly irregular working patterns of many agency workers, these regulations provide flexibility to allow agency workers working to achieve the entitlement. When an agency worker has a break of no more than six weeks for any reason (including most forms of contractual or statutory leave, e.g. sickness or holiday) and returns to the same role with the same hirer, this usually pauses their 12-week reference period or in the case of certain types of leave (e.g. maternity, adoption, or neonatal care leave), the break counts towards the period. The reference period is not reset.[84] Consistent with this principle which aims to recognise the reality of irregular working patterns, the government should allow workers to continue to qualify as working regularly if they have breaks of no more than six calendar weeks (out of 12).

The official ONS publication on ZHC workers provides some insight into irregular working patterns that leave some workers without any work for an entire week.[85] The ONS reports that 4.1 per cent of those on zero-hours contracts worked no hours due to their working hours varying in the survey reference week in the January to March 2026 LFS data. This value has ranged from 2.7 to 5.0 per cent over the past five years of quarterly results, with a mean of 4.0 per cent. Although this does not evidence the typical number of weeks with no work at all that may be expected for this group over a longer reference period, it does indicate that there is consistently a measurable group of workers on ZHCs who have no work for entire weeks.

By contrast, these results are around five to six times higher than the equivalent for those not on a ZHC. Only 0.6 per cent of those not on a ZHC worked no hours due to their working hours varying in the survey reference week in the January to March 2026 LFS data. Although less prevalent, it is useful reminder that some workers with at least some guaranteed hours are guaranteed these hours over a period other than weeks. Thus, this result may in part reflect workers on annualised hours contracts, such as Gateline staff represented by RMT or

---

[83] UK Government (6 February 2026). "Make Work Pay: Modernising the Agency Regulatory Framework." *Consultation document*, UK Government. www.gov.uk/government/consultations/make-work-pay-modernising-the-agency-work-regulatory-framework
[84] Acas (2026). "Agency workers: Your employment rights after 12 weeks." www.acas.org.uk/agency-workers/understanding-your-employment-rights-after-12-weeks
[85] Office for National Statistics (ONS), published 19 May 2026, ONS website, dataset www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/emp17peopleinemploymentonzerohourscontracts

teaching associates in universities represented by UCU. This value has ranged from 0.5 to 0.8 per cent over the past five years of quarterly results, with a mean of 0.7 per cent.[86]

Therefore, directly engaged workers should be required to work at most during a minimum of six weeks during a 12-week initial reference period to ensure that the right is more inclusive for those on irregular working patterns, whilst avoiding created unintended loopholes for employers to evade the new duty to offer a GHC.

Q12.a: If there were to be a weekly distribution requirement AND a total hours requirement (as in Option B), what should the total hours requirement be for a directly engaged worker? (The below options are framed around the government's preference for a 12-week initial reference period. The options would scale proportionally for a longer initial reference period.)

As stated above, it is the TUC's strong view that no regularity test should be set. The TUC also strongly opposes the introduction of a total hours requirement as an additional component to a regularity test. Such a requirement would add further complexity to an already very complicated set of rules. Workers would find it extremely difficult to judge or challenge an employer's claim about whether they have met this test. It is also an unnecessary hurdle that would stand in the way of bringing greater security to the labour market.

However, if there were to be a weekly distribution requirement AND a total hours requirement set, the hours requirement for a directly engaged worker should be fewer than 48 hours (in excess of contracted hours) across a 12-week initial reference period.

Q12.b: Please explain your answer

As stated, our strong preference is for no regularity test to be set, but if one is set, our preference is for there to only be a weekly distribution requirement. We do not agree with the option of adding a total hours requirement to the definition of regular working. The more stringent any regularity test is set, the less likely the right to guaranteed hours will benefit the workers who need it most: those who suffer from the most unpredictable working patterns and most insecure incomes.

However, if the government was to proceed with the option of a weekly distribution requirement and a total hours requirement, the option selected for the hours requirement should be the lowest one provided – fewer than 48 hours (in excess of contracted hours) across a 12-week initial reference period. If something above 48 hours were selected, workers could be working four hours of overtime every week and still fail to qualify for a GHC.

---

[86] Office for National Statistics (ONS), published 19 May 2026, ONS website, dataset www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/emp17peopleinemploymentonzerohourscontracts

We are particularly concerned that an employer might seek to game the system, perhaps by stopping overtime for a week or two, thus pushing up the additional time needed to have been worked in other weeks to meet the threshold.

Our view is therefore that if the government was to proceed with this option, the required number of overtime hours (hours in excess of contracted hours) should be set as far below 48 as possible. For example, 12 hours, which would equate to an average of 1 hour of overtime per week during a 12-week reference period.

Q13.a: The government proposes that the regularity requirements should scale in the event of longer subsequent reference periods. Do you agree?

No. The regularity requirements should not scale in the event of longer subsequent reference periods.

Q13.b: Please explain your answer

As previously stated, all workers should have the right to a GHC that reflects their regular hours of work, and both the initial and subsequent reference periods for all workers should be 12 weeks. Allowing the regularity requirements to scale if the government choose subsequent reference periods of longer than 12 weeks would mean that fewer workers would gain the right to a GHC, as the qualification rules would become more restrictive.

Q14.a: Based on the two options set out above for agency workers, select below which option is preferred:

As set out above, the TUC's strong view is that no regularity test should be set. The effect would be particularly damaging for agency workers. Such a test adds unnecessary complexity, risks vulnerable workers missing out on rights and opens a potential loophole for employers to exploit.

However, we recognise the intention in the consultation paper to set a regularity test. If one is set, our preference for agency workers is again Option A: a weekly distribution requirement.

Q14.b: Please explain your answer

Our reasons for this preference as the same as for directly engaged workers. Adhering to the important principle of simplicity will maximise the number of workers who are supported, make eligibility for the new right easier to understand, and minimise the risk of creating unintended loopholes. The simplest option is not to set a regularity test. The legislation does not require one. The Employment Rights Act 2025 specifies in Schedule A1, Part 1, *Rights for qualifying agency workers to be offered guaranteed hours*, sub-section (3)(b) that agency workers are qualified agency workers where "the reference period hours satisfy such conditions as to number, regularity, or otherwise as are specified." The corresponding final explanatory notes to the Employment Rights Act 2025 similarly note that the law provides for but does not require a regularity test.[87]

Even with the simpler of the two options for setting a regularity test, there is again a significant risk that agency workers, even more so than some directly engaged workers, may be unable to exercise their rights. They may experience difficulties accessing records or being able to prove their working time record during the reference period, which would leave them without the information needed to calculate their average hours. In our submission to the *Modernising the Agency Work Regulatory Framework* consultation,[88] the TUC noted that the government was right to draw attention to the 2021 Agency Worker Survey Report. The survey demonstrated the clear lack of transparency agency workers have regarding their pay, deductions, and documentation, let alone with respect to the working hours on which they were being paid:

- 14 per cent of agency workers said it was not made clear who was even paying them (rising to 22 per cent among those paid by an umbrella company).
- 15 per cent of agency workers did not receive payslips for their most recent assignment.
- 15 per cent of agency workers who experienced salary deductions (for example DBS checks, training, uniform costs, etc) had not been notified in advance.
- Nearly a third of agency workers (32 per cent) did not receive a written statement detailing key information about their assignment.[89]

Especially if setting a regularity test, we urge the government to require hirers and agencies to provide agency workers with accurate electronic information and records containing details of their working hours. This would provide workers with an official record to demonstrate where the regularity test had been met. This record must be accessible because currently many workers are denied access to their payslips due to security measures limiting access.

Furthermore, keeping the regularity requirement the same for directly engaged and agency workers is also the best anti-avoidance approach to avoid making the duty more or less likely to be triggered depending upon the model of employment chosen.

Q15.a: What should the minimum number of weeks be in which an agency worker is required to work during the reference period for a certain hirer to qualify (the weekly distribution requirement)?

---

[87] Department for Business & Trade (2025). "Explanatory Notes – Employment Rights Act 2025." www.legislation.gov.uk/ukpga/2025/36/pdfs/ukpgaen_20250036_en.pdf

[88] Trades Union Congress (4 June 2026). "Make Work Pay: Modernising the Agency Work Regulatory Framework." *Consultation response,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/make-work-pay-modernising-agency-work-regulatory-framework

[89] Department for Business & Trade (2025). "Agency Worker Survey (2021) – Report of Findings: Experiences and views of agency workers in the UK." https://assets.publishing.service.gov.uk/media/67c57531750837d7604dbd55/agency_worker_survey_report.pdf

The minimum number of weeks in which an agency worker should be required to work during the reference period to meet the weekly distribution requirement is six weeks across a 12-week initial reference period. We support the government's preference for a 12-week initial reference period. We think the government should rethink the suggestion for the options to scale proportionally for longer reference periods.

Q15.b: Please explain your answer

Our reasons for this answer are the same as for directly engaged workers. Agency workers should be required to work during a minimum of six weeks during a 12-week initial reference period. This would make the right inclusive for those with irregular working patterns, whilst avoiding creating unintended loopholes for employers to evade the new duty to offer a GHC. There should be no reference periods longer than 12 weeks, but if there were, any regularity tests should not be scaled. Doing so would make access to the new rights more restrictive for those with the most irregular working patterns and insecure incomes.

Q16.a: If there were to be a weekly distribution requirement AND a total hours requirement (as in Option B), what do you think the total hours requirement should be for an agency worker?

As stated above, it is the TUC's strong view that no regularity test should be set. The TUC also strongly opposes the introduction of a total hours requirement as an additional component to the regularity test. It would add further complexity to an already very complicated set of rules.

If there were to be a weekly distribution requirement AND a total hours requirement set, the hours requirement for an agency worker should be fewer than 48 hours (in excess of contracted hours) across a 12-week initial reference period.

Q16.b: Please explain your answer

As stated, our preference is for there to only be a weekly distribution requirement. We do not agree with the option of adding a total hours requirement to the definition of regular working. The more stringent any regularity test is set, the less likely the right to guaranteed hours will benefit the workers who need it most: those who suffer from the most unpredictable working patterns and most insecure incomes.

We are particularly concerned that an employer might seek to game the system, perhaps by stopping overtime for a week or two, thus pushing up the additional time needed to have been worked in other weeks to meet the threshold.

However, if the government was to proceed with the option of a weekly distribution requirement and a total hours requirement, the option selected for the hours requirement should be the lowest one provided – fewer than 48 hours (in excess of contracted hours) across a 12-week initial reference period. If something above 48 hours were selected, workers could be working four hours of overtime every week and still fail to qualify for a GHC.

Our view is therefore that if the government was to proceed with this option, the required number of overtime hours (hours in excess of contracted hours) should be set as far below

48 as possible. For example, 12 hours, which would equate to an average of 1 hour of overtime per week during a 12-week reference period.

Q17.a: The government proposes that the regularity requirements should scale in the event of longer subsequent reference periods. Do you agree in relation to agency workers?

No, the regularity requirements should not scale in the event of longer subsequent reference periods.

Q17.b: Please explain your answer

As previously stated, all workers have the right to a GHC that reflects their regular hours of work, and that both the initial and subsequent reference periods for all workers should be 12 weeks. Allowing the regularity requirements to scale if the government choose subsequent reference periods of longer than 12 weeks would mean that fewer workers would gain the right to a GHC, as the qualification rules would become more restrictive.

Q18.a: Do you think there are examples of temporary need which are not related to a specific task or event – and would need to be addressed through regulations?

No, there are no examples of temporary need that are not related to a specific task or event that would need to be addressed through regulations.

Q18.b: Please list examples of temporary need which are not related to a specific task or event - and would need to be addressed through regulations. Please explain each example

There are no examples of temporary need that are not related to a specific task or event that would need to be addressed through regulations.

We are strongly of the view that the sorts of situations that are cited can be managed through mechanisms such as collective bargaining and workforce planning.

For example, within the NHS, employers may argue that there are "temporary needs" created by staff shortages. The reality is that staff shortages are an acknowledged chronic problem across the NHS and in the social care sector.[90] This is a problem across the NHS and in other areas of the economy that must be addressed through proper workforce planning and proper contracts – not through the exploitation of workers. However, terms and conditions for staff in the NHS are routinely managed through collective bargaining with several trade unions. This should provide a ready opportunity for collective agreement on tailored conditions to benefit both the workers and the employer where required.

---

[90] NHS England (3 Sep 2024). "NHS Long Term Workforce Plan." www.england.nhs.uk/long-read/nhs-long-term-workforce-plan-2/

The consultation paper raises questions about seasonal work. We do not believe that the nature of this work requires creating an exception to the right to a guaranteed hours contract. Many seasonal workers will return to their employer season after season, whether that is agricultural work such as during harvesting or festive deliveries. They have the same need for security as workers who work for the same employer all year long. They shouldn't be exposed to the complete insecurity of ZHCs in perpetuity where an employer can pass lots of the business risk, such as that relating to unfavourable weather, in perpetuity. Those undertaking one-off duties may be employed on fixed-term contracts.

Employers in other industries, such as retail, food manufacturers, civil aviation, and hospitality may seek to argue that peaks and troughs in demand mean that they require special dispensation to make contracts temporary. But while, for example, a pub with a garden is likely to experience fluctuating demand relating to weather, workers in that sector should not be expected to bear the risk associated with that demand. It should be the employer's responsibility to manage workforce planning appropriately to account for inevitable fluctuations in demand and to enable staff to take periods of statutory or contractual leave, such as sick leave or maternity leave. The government should not use its discretion to expand exclusions or make it easier for employers to justify the use of limited-term contracts. It should instead issue guidance to make clear to workers and employers that such exemptions are tightly limited.

The TUC is concerned about the interaction of fixed-term and limited-term contracts. Where a worker has had a series of fixed-term contracts and becomes eligible for a guaranteed hours contract which is offered in the form of a limited-term contract, it is vital that this does not break continuity of service. In particular, it should not affect the presumption of permanence after four years of fixed term contracts.

Q19.a: Which calculation method do you think should be used for determining the guaranteed hours offer for directly engaged workers?

A mean average, rather than a median, should be used for determining the guaranteed hours offer for directly engaged workers.

Q19.b: Please explain your answer

Mean and median are two different ways to calculate an average. The guaranteed hours offer is intended to 'reflect' the number of hours worked during the reference period. Calculating the average based on the mean will ensure that the result is reflective of the hours worked during every week of the reference period. By contrast, calculating based on the median would allow employers to game the result, by increasing working hours in a limited number of weeks, without affecting the number of guaranteed hours they would have to offer the worker. Below is an illustration of what a mean and median average guaranteed hours calculation, combined with our 12-week reference period, of which at least six must have been worked regularity test position, could result in for a range of hypothetical sets of working hours. Weeks with zero hours reflect no working hours being offered, not periods of statutory or contractual leave, and therefore are included in our calculations. As the table indicates, using mean would results in a guaranteed hours offer that, over a period of 12 weeks, would align with the worker's hours during the 12-week reference period. Whereas, using median would generate significantly different results where weekly hours during the reference period were not consistent.

Description:	Consistent hours at different regularities			Fairly consistent hours at different regularities			Fairly consistent hours, couple high outliers, at different regularities			Fairly consistent hours, couple low outliers, at different regularities			Wildly inconsistent hours at different regularities		
	Worked whole ref period	Worked most of ref period	Worked half of ref period	Worked whole ref period	Worked most of ref period	Worked half of ref period	Worked whole ref period	Worked most of ref period	Worked half of ref period	Worked whole ref period	Worked most of ref period	Worked half of ref period	Worked whole ref period	Worked most of ref period	Worked half of ref period
Weeks	Hours worked	Hours worked	Hours worked	Hours worked			Hours worked	Hours worked	Hours worked	Hours worked	Hours worked	Hours worked	Hours worked	Hours worked	Hours worked
1	48	0	0	10	0	0	10	0	0	40	0	0	5	0	0
2	48	0	0	15	0	0	15	0	0	45	0	0	20	0	0
3	48	0	0	10	0	0	40	0	0	10	0	0	7	0	0
4	48	48	0	15	15	0	48	40	0	15	40	0	48	15	0
5	48	48	0	10	10	0	10	48	0	40	45	0	30	5	0
6	48	48	0	15	15	0	15	10	0	45	10	0	10	40	0
7	48	48	48	10	10	10	10	15	10	40	15	40	15	20	20
8	48	48	48	15	15	15	15	10	40	45	40	45	8	7	7
9	48	48	48	10	10	10	10	15	15	40	45	15	40	30	30
10	48	48	48	15	15	15	15	10	48	45	40	10	22	10	10
11	48	48	48	10	10	10	10	15	10	40	45	45	6	48	48
12	48	48	48	15	15	15	15	10	15	45	40	40	13	6	6
MEAN:	48.00	36.00	24.00	12.50	9.58	6.25	17.75	14.42	11.50	37.50	26.67	16.25	18.67	15.08	10.08
MEDIAN:	48.00	48.00	24.00	12.50	10.00	5.00	15.00	10.00	5.00	40.00	40.00	5.00	14.00	8.50	3.00
Total hours worked during ref period:	576	432	288	150	115	75	213	173	138	450	320	195	224	181	121
MEAN for 12 weeks	576	432	288	150	115	75	213	173	138	450	320	195	224	181	121
MEDIAN for 12 weeks	576	576	288	150	120	60	180	120	60	480	480	60	168	102	36

Furthermore, the right to guaranteed hours is intended to give workers security and stability in their working hours and consequently their pay. Using mean to calculate the guaranteed hours offer is consistent with many existing employment rights. For example, holiday pay for those with irregular hours is based on a mean rate of pay,[91] and average weekly earnings that are used to set statutory maternity pay[92] and statutory sick[93] pay both refer to mean earnings. We are not aware of any relevant examples that use a median.

As indicated above, our proposal is for initial and subsequent reference periods for both directly engaged and agency workers to be measured on a consistent basis with the 12-week reference period that applies to agency workers' entitlement to equal treatment in the *Agency Worker Regulations 2010*. As such, initial or subsequent reference periods would not include most types of contractual or statutory leave. For example, short periods of sickness absence or annual leave would trigger a pause to the reference period. Certain types of leave, e.g. maternity, adoption, or neonatal care leave, do not pause and are included.

Therefore, where still relevant (or if our proposal were not implemented), the mean hours calculation to determine the guaranteed hours offer should exclude any periods of statutory or contractual leave taken. For example, if a worker has taken annual leave or been off sick for one week of the twelve, their mean hours should reflect their total hours worked in the remaining period divided by eleven. Doing otherwise would artificially lower the guarantee with no hours being worked during periods of leave.

Q20.a: Do you think employers should have flexibility to determine the period over which the hours will be allocated (weekly, monthly, or other)?

Yes, but within strict parameters. Workers already guaranteed some hours over any period should be offered a contractual increase to their guaranteed hours over the same period (such as weekly or monthly), subject to the provisions in a collective agreement.

The lessons learned from the introduction of the Agency Worker Regulations in 2011 is that some employers will go to some lengths to subvert the purpose of employment protections. In that case, until recent government action, workers were kept on pay-between-assignments contracts to avoid equal pay obligations after 12 weeks. Every

---

[91] HM Government (2026). "Holiday entitlement." www.gov.uk/holiday-entitlement-rights/holiday-pay
[92] HMRC (6 April 2025). "Guidance: Work out our employee's payments for Statutory Maternity Pay." www.gov.uk/guidance/statutory-maternity-pay-manually-calculate-your-employees-payments
[93] HMRC (18 May 2026). "SPM170300 - Average Weekly Earnings (AWE) - SSP: calculating AWE" www.gov.uk/hmrc-internal-manuals/statutory-payments-manual/spm170300

effort should be made to avoid creating similar loopholes in this legislation such as the use of ultra-flexible annualised hours contracts.

For workers with no guarantee of hours over any period (i.e. ZHC workers), the default position should be that they are offered a weekly-hours contract. Variation from this default position should only be allowed where the terms of a collective agreement result in a different conclusion.

All employees would also continue have the right to request flexible working arrangements, should they wish to request a different pattern.

Q20.b: Please explain your answer

All guaranteed hours contract offers should reflect the pattern of working that the worker was previously undertaking subject to the continued right of all employees to request flexible working arrangements or the provisions in a collective agreement. We are concerned that the consultation document is silent on the working pattern of the guaranteed hours to be offered, and we have expanded upon this concern in our response to Question 33.

Where workers are already guaranteed some hours over any period, the new contract should be offered on the same basis, subject to the terms of a collective agreement providing for an alternative approach. For example, a worker that already has a weekly-hours guarantee should be offered an increased weekly-hours contract. Where the workers are already on an annualised hours contract, it is reasonable for the guaranteed hours offer to also be on annualised basis. Where workers have a 'four-on-four-off' rotating shift pattern, such as those found in warehouses and manufacturing, it is reasonable to expect those patterns to continue. Where workers are already on a term-time contract, it is reasonable for the guaranteed hours offer to also be on the same term-time arrangements, assuming that the worker is not expected to perform any work outside of term-time. This list is not exhaustive. The duty to make a guaranteed hours offer is designed to provide workers with security based on the work that they normally do. However, this should be subject to the terms of any collective agreement, and the continued right of employees to request flexible working arrangements.

Conversely, it would be unreasonable for employers to unilaterally make a guaranteed hours offer for instance, on an annualised or term-time basis to workers who are already on a contract that guarantees them a certain number of hours on a weekly basis.

As set out in more detail in our response to question 33, we urge the government to consider the effect of Section 27BB, *Requirements relating to a guaranteed hours offer* in the Employment Rights Act 2025 in protecting workers in this situation, particularly the requirement in sub-section (8)(b)(i) for terms and conditions in the offer "that, taken as a whole, are no less favourable than the terms and conditions of employment relating to matters other than working hours and length of employment that the qualifying worker had when working for the employer during the relevant reference period." Unions are concerned that this provision might not be sufficient to protect workers from situations in which contract offers are made which a worker cannot accept due to their composition. In particular, we urge the government to seriously consider utilising powers in that section that allow the Secretary of State to make regulations that ensure in a new contract, "those days and times reflect, or that pattern reflects, when the qualifying worker worked the reference period hours in the relevant reference period".

For workers with no guarantee of hours over any period (i.e. ZHC workers), the default position should be that they are offered a weekly-hours contract. Variation from this default position should only be allowed where a collective agreement provides for a different approach. This is to guard against employers putting in place a pseudo-zero-hours arrangement by offering workers annualised hours contracts, which we know is already a concern among trade unions. There is a particular risk otherwise that employers may be incentivised to offer annualised hours contracts (either on initial engagement or through the new duty to offer guaranteed hours) that operate very similarly to a ZHCs. This risk would be even higher if the hours threshold were set below full-time hours. This could leave workers still facing considerable variation in both their pay and working hours, as annualised-hours workers can be paid according to their actual hours worked in each pay period or in equal instalments throughout the year, subject to the terms of their contract.[94]

For example, RMT represents some Gateline staff employed by outsourcing firm Carlisle on Northern Train stations, who are on annualised hours contracts that only guarantee 336 hours per year (equivalent to roughly six hours per week). While these workers tend to be rostered around or even in excess of full-time hours, they have no guarantee as to the number of hours they will work in any given week, which can be reduced down to zero in any given week. When their hours vary, so does their pay, in accordance with terms of their contract. If ZHC workers were offered annualised hours contracts by default, therefore, this could provide them fairly minimal improved security or stability.

It is worth keeping in mind that the Employment Rights Act 2025 also allows collective agreements between trade unions and employers to agree fully tailored conditions which would benefit both the workers and the employer. Collective agreements can be used to ensure that workplace arrangements are shaped by those who understand the business and its workforce best. Collective bargaining also brings specific benefits to employers, as it is linked to lower staff turnover, higher innovation, reduced staff anxiety relating to management of change, and a greater likelihood of high-performance working practice.[95]

[94] Brightmine HR & Compliance Centre (2026). "How to manage annualised hours contracts." hrcentre.uk.brightmine.com/how-to/how-to-manage-annualised-hours-contracts/153557/
[95] Trades Union Congress (3 Sep 2019). "A Stronger voice for workers." www.tuc.org.uk/research-analysis/reports/stronger-voice-workers

Q20.c: (if yes) Which of the following time periods should employers be able to choose? (select as many as you see fit)

The default should be that a new contract reflects the structure of the existing one, such as with a weekly or monthly allocation of hours but with a default position that a zero-hours worker receives a weekly-hours contract. Only where set out in a collective agreement, employers should be able to select from the following time periods: a week, a month, a year (annualised contracts), or term-time.

Q20.d: Please explain your answer

As we have said above, workers already guaranteed some hours over any period should be offered a contractual increase to their guaranteed hours over the same period, subject to the terms of a collective agreement with the workers concerned. For workers with no guarantee of hours over any period (i.e. ZHC workers), the default position should be that they are offered a weekly-hours contract. Variation from this default position should only be allowed where a collective agreement allows it.

Where relevant only (i.e. where the approach above has been followed), employers should be able to select from the following time periods: a week, a month, a year (annualised contracts), or term-time. These are the typical periods over which contracted hours are guaranteed within the labour market. It is important that the new regulations work to protect all workers on a consistent basis, regardless of their current contractual terms. Annualised hours contracts and term-time contracts are existing forms of flexible working that may or may not suit some workers and some workplaces.[96]

Annualised hours arrangements guarantee workers a certain number of hours over a year, but with more flexibility over when these hours are worked during the year. For example, there are Gateline staff, frontline customer service and security workers who manage automatic train ticket barriers, represented by RMT, who are on annualised hours contracts that guarantee 336 hours per year. Although in practice, these workers tend to be rostered around or even in excess of full-time hours, they have no guarantee as to the number of hours they will work in any given week, which can be reduced down to zero. When their hours vary, so does their pay, in accordance with terms of their contract. These workers, who are regularly working above their contractual hours, also deserve a contract that reflects their regular working hours.

Term-time arrangements may guarantee workers a certain number of hours per week during term-time (i.e. when schools are open) but provide no work or outside of term-time. Workers, for example, with school-age children, may request this form of flexible working, to help manage childcare arrangements, although all employees have the

[96] Trades Union Congress (14 May 2021). "Work from Home Day: new laws needed to make flexible working patterns available for all workers after pandemic." www.tuc.org.uk/news/work-home-day-new-laws-needed-make-flexible-working-patterns-available-all-workers-after

right to request flexible working arrangements from day one of a job.[97] However, unions are concerned that where these arrangements are commonly advertised by employers, for example, for school support staff, they create a two-tier workforce, with term-time workers experiencing significant financial disadvantage. For example, GMB analysis published in 2024 showed that if school support staff were paid for the full year, instead of just during term-time, their wages would have increased by nearly £4,000 on average.[98] We hope that a robust re-instated School Support Staff Negotiating Body (SSSNB) will rapidly improve the position of these workers. Meanwhile, it is important that the right to guaranteed hours works to provide security for their contractual arrangements as well.

Q21.a: If the government were to mandate a time period over which employers would need to allocate hours in guaranteed hours offers, what do you think this should be?

If the government were to mandate a time period over which employers would need to allocate hours in a guaranteed hours offer, this period should be per week, but this should only apply where workers do not have any existing guaranteed hours (i.e. those on ZHCs).

Q21.b: Please explain your answer

Any such mandate should only apply where workers do not have any existing guaranteed hours (i.e. those on ZHCs). Where workers already have contractual hours guaranteed over any period, the guaranteed hours offer should be allocated over the same period, as we have stated above.

For workers with no guarantee of hours over any period (i.e. ZHC workers), the default position should already be that they are offered a weekly-hours contract. Variation from this default position should only be allowed where a collective agreement provides for an alternative arrangement (weekly, monthly, annualised, or term-time). This is to guard against employers putting in place a pseudo-zero-hours arrangement by offering workers annualised hours contracts. Unions are concerned about the insecurity such contracts provide where they are currently used and it would be a poor outcome if these reforms simply led to many workers moving onto annualised hours arrangements with little additional certainty over hours and pay. However, if the government were to make a mandate when making a guaranteed hours offer to those without any existing guaranteed hours (i.e. those on ZHCs), then this period should be

[97] Trades Union Congress (2026). "Guide to flexible working." *Workplace guidance,* Trades Union Congress. www.tuc.org.uk/workplace-guidance/pay-holiday-and-working-hours/flexible-working

[98] GMB (25 September 2024). "School staff lose £4,000 a year thanks to term time only deals." www.gmb.org.uk/news/school-staff-lose-4000-a-year-thanks-to-term-time-only-deals

weekly. This would provide the least scope for distortion of hours and inconsistent earnings for workers trying to meet their basic needs.

Q22.a: Do you think employers should have the flexibility to use an adjustment margin?

We are responding 'other' to emphasise that any adjustment margin should not allow rounding down. Employers should only have the flexibility to use an adjustment margin to round up to the next hour.

Q22.b: Please explain your answer

The role of the *National Minimum Wage Act 1998* is to provide a baseline level of remuneration that employers must pay for an hour of work. There is no provision under minimum wage regulations to allow for rounding working hours down. The relevant pay divided by the relevant working hours must result in an average hourly rate that is equal or greater than the relevant statutory minimum hourly rate.[99]

In a similar vein, it would be inconsistent with the government's objective to achieve a baseline of security and stability to allow employers to round down average working hours during the reference period by any method when calculating a guaranteed hours offer. We recognise that making a guaranteed hours offer that potentially includes a fraction of an hour may be logistically challenging.

Therefore, we propose that employers should only have the flexibility to use an adjustment margin to round up to the next hour. In practice, this would mean, for example, that employers could make a guaranteed hours offer of 15 hours per week to workers who had regularly worked a median of anything more than 14 hours per week up to exactly 15 hours per week.

Q23.a: Which calculation method do you think should be used for determining the guaranteed hours offer for agency workers?

A mean average, rather than median, should be used for determining the guaranteed hours offer for agency workers.

Q23.b: Please explain your answer

[99] HM Revenue & Customs (7 April 2026). "National Minimum Wage Manual." *HMRC internal manual,* HM Revenue & Customs. www.gov.uk/hmrc-internal-manuals/national-minimum-wage-manual; Department for Business & Trade (6 January 2026). "Calculating the minimum wage." www.gov.uk/guidance/calculating-the-minimum-wage/calculating-the-minimum-wage

Our justification for this response is that same as stated above for directly engaged workers. The mean measure of average will prevent employers from gaming the calculation, thus ensuring that work during every week affects the guaranteed hours offer.

We would again note that agency workers, even more so than some directly engaged workers, may experience difficulties accessing records or being able to prove their working time record during the reference period on which to calculate their average hours, as we have discussed in our response to Question 14.B.

It will therefore be vital that hirers and agencies record working time properly, and that there is clarity on what counts as working time (e.g. travel time). We recommend that this is formalised via a duty on hirers and agencies to provide agency workers with accurate, and accessible, electronic information and records, containing details of their working hours, as we have proposed in our response to Question 14.b.

Q24.a: Do you think hirers should have flexibility to determine the time period over which the hours will be allocated for agency workers? (weekly, monthly, other)

Yes, but subject to the below same caveats as for directly engaged workers.

Any agency workers already guaranteed some hours over any period should be offered a contractual increase to their guaranteed hours over the same period, subject to the terms of any collective agreement.

For any agency workers with no guarantee of hours over any period (i.e. ZHC workers), the default position should be that they are offered a weekly-hours contract. Variation from this default position should only be allowed where a collective agreement states otherwise.

Any agency worker with employee status would continue to have the right to request flexible working arrangements, should they wish to request a different pattern.

Q24.b: Please explain your answer

Our justification for this response is the same as for directly engaged workers. Where agency workers already have some contractual hours over any period, the guaranteed hours offer should be offered over the same period, subject to consultation. Unilaterally offering something different would be unreasonable. Where agency workers have no contractual hours (i.e. ZHC workers), the default position should be a weekly guarantee to provide worker with financial stability. Variation should only be allowed through a robust consultation process with workers, and their union, where applicable. This is to prevent hirers from creating pseudo-zero-hours arrangements by offering agency workers annualised hours contracts, which risk providing them fairly minimal improved security or stability, as we have described above. Furthermore, agency workers, like all workers, deserve a voice in their workplaces to express their preference on this key contractual feature.

We reiterate here that guaranteed hours contract offers should reflect the pattern of working that the worker was previously undertaking, subject to a collective agreement and the continued right of all employees to request flexible working arrangements. We are concerned that the consultation document is silent on the working pattern of the guaranteed hours to be offered, and we have expanded upon this concern in our response to Question 33.

Q24.c: (if yes) Which of the following time periods should hirers be able to choose? (select as many as you see fit)

Where relevant only (i.e. where robust consultation has taken place), hirers should be able to select from the following time periods: a week, a month, a year (annualised contracts), or term-time.

Q24.d: Please explain your answer

Our justification here is the same as for directly engaged workers.

As we have said above, agency workers already guaranteed some hours over any period should be offered a contractual increase to their guaranteed hours over the same period, subject to the terms of a collective agreement. For workers with no guarantee of hours over any period (i.e. ZHC workers), the default position should be that they are offered a weekly-hours contract. Variation from this default position should only be allowed where robust consultation with the workers involved, and where relevant, their trade union, mutually results in a different conclusion.

Where relevant only, hirers should be able to select from the following time periods: a week, a month, a year (annualised contracts), or term-time. These are the typical periods over which contracted hours are guaranteed within the labour market. It is important that the new regulations work to protect all workers on a consistent basis, regardless of their current contractual terms.

Q24.e: If the government were to mandate a time period over which hirers would need to allocate hours in guaranteed hours offers for agency workers, what do you think this this should be?

If the government was to mandate a time period over which hirers would need to allocate hours in a guaranteed hours offer, this period should be a week but only for agency workers with no guaranteed hours before the offer (i.e. those on ZHCs).

Q24.f: Please explain your answer

Our justification is the same here as for directly engaged workers. Any such mandate should only apply where the agency workers do not have pre-existing contractual hours.

Where agency workers do already have contractual hours guaranteed over any period, their guaranteed hours offer should be allocated over the same period, as we have stated above and for directly engaged workers.

For agency workers with no guarantee of hours over any period (i.e. ZHC workers), the default position should already be that hirers offer them a weekly-hours contract. Variation from this default position should only be allowed where meaningful consultation with the agency workers involved, and where relevant, their trade union, results in a different conclusion (weekly, monthly, annualised, or term-time). This is to guard against employers putting in place a pseudo-zero-hours arrangement by offering agency workers annualised hours contracts, which we know is already a concern among trade unions, and have described above.

However, if the government was to make a mandate when making a guaranteed hours offer to agency workers without any existing guaranteed hours (i.e. those on ZHCs), then this period should be weekly. This would make the default assumption that we have already proposed stronger and would provide the least scope for distortion of hours and inconsistent earnings for workers trying to meet their basic needs.

Q25.a: Do you think hirers should have the flexibility to use an adjustment margin to tailor the offer to their needs?

We are again responding 'other' to emphasise that any adjustment margin should not allow rounding down. Hirers should only have the flexibility to use an adjustment margin to round up to the next hour.

Q25.b: Please explain your answer

Our rationale is the same as we have stated for employers of directly engaged VHWs. Minimum wage regulations do not allow for working hours to be rounded down, and nor should the duty to offer guaranteed hours. Recognising the logistical challenges that making a guaranteed hours offer that potentially includes a fraction of an hour may create, we propose that hirers should only have the flexibility to use an adjustment margin to round up to the next hour. In practice, this would mean, for example, that hirers could make a guaranteed hours offer of 15 hours per week to agency workers who had regularly worked a mean of anything more than 14 hours per week up to exactly 15 hours per week.

Q26.a: Should there be any types of workers that are excluded from the right to guaranteed hours?

No, there should not be any types of workers excluded from the right to guaranteed hours.

Q26.b: If yes, please list any types of workers that you think should be excluded from the right to guaranteed hours.

We have answered no.

Q26.c: If no, please explain your answer

The government should not create any regulations to exclude any type of workers from the right to guaranteed hours. As we have stated previously, the Employment Rights Act 2025—including the provisions relating to ending one-sided flexibility—must be delivered in full. This means ensuring that all workers have the right to a contract that reflects their actual working hours.

The TUC strongly supports the government's commitment in its *Plan To Make Work Pay* to "end 'one sided' flexibility and ensure all jobs provide a baseline level of security and predictability, banning exploitative zero-hours contracts and ensuring everyone has the right to have a contract that reflects the number of hours they regularly work, based on a twelve-week reference period."[100]

As we set out fully in our response to Question 1.e., ensuring this universal right for VHWs is particularly important, given what we know about the protected characteristics of VHWs and the industries in which they work, based on TUC analysis of the LFS.[101]

The majority of VHWs in Great Britain—52.4 per cent—are women. BME workers, especially women, are more likely to be a variable-hours worker than white workers. Around 11.9 per cent of BME women workers and 10.8 per cent of BME men workers are VHWs, compared with around 7.8 per cent for white men and 8.5 per cent for white women workers.

Although employers may argue that mothers and carers value the flexibility of a ZHC to fit work around their caring commitments, TUC polling shows that this is inaccurate. Far from providing the flexibility often claimed, these contracts impose insecurity and stress on workers already facing disadvantage, particularly BME workers, young people, carers and working mothers, deepening gender and racial inequality in work and income. While two-thirds (66 per cent) of workers on a ZHC reported receiving no compensation for cancelled shifts, this rose to around three-quarters for mothers on a

---

[100] The Labour Party (2024). "Labour's plan to make work pay: Delivering a New Deal for Working People." https://labour.org.uk/wp-content/uploads/2024/05/LABOURS-PLAN-TO-MAKE-WORK-PAY.pdf

[101] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

ZHC (74 per cent) and BME workers on a ZHC (75 per cent).[102] Our poll also showed that mums (35 per cent) and carers (38 per cent) on ZHCs were more likely than those not on ZHCs (22 per cent and 20 per cent respectively) to often find it hard to manage care alongside their work.[103] This is underpinned by the findings of the Work Foundation report *In Limbo*. This found that managing childcare alongside ZHC work often created additional financial strain. Some study participants had to rely on family members for childcare. Other participants reported having to pay for childcare only to experience a late shift cancellation or move, meaning a net loss in earnings.[104] This puts paid to the idea that ZHCs are the best way to help working parents and carers balance paid work and unpaid caring commitments.

TUC analysis of the LFS[105] also indicates that young workers are two-to-three times more likely to be VHWs than older workers of working age. Around 20.0 per cent of workers aged 16-to-24 are VHWs, compared to just 6.2 to 8.4 per cent of workers up to the state pension age.

Employers may argue that much of this reflects an active choice by students who value flexibility in their working hours. Where that is genuinely the case, the Employment Rights Act 2025 already allows workers to choose to keep their existing contract. However, as we have presented in our response to Question 1.e., recent TUC polling found that four in five students on ZHCs (80 per cent) reported that they had experienced difficulties managing studying and education alongside their work.[106]

Furthermore, TUC-commissioned analysis by Timewise found that a quarter (27 per cent) of workers who are economically inactive due to sickness are 16 to 39 years old. Sectors where young people are the most likely to work (wholesale and retail, food and accommodation, and health and social care) are those with the highest number of workers moving into economic inactive due to ill-health.[107] This suggests that rather

---

[102] Abdul, S. (30 September 2025). "The experience of insecure work." *Research and reports,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/experience-insecure-work

[103] Trades Union Congress (30 August 2024). "Over 8 in 10 zero-hours contract workers want regular hours – TUC poll reveals." www.tuc.org.uk/news/over-8-10-zero-hours-contract-workers-want-regular-hours-tuc-poll-reveals

[104] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

[105] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

[106] Trades Union Congress (30 August 2024). "Over 8 in 10 zero-hours contract workers want regular hours – TUC poll reveals." www.tuc.org.uk/news/over-8-10-zero-hours-contract-workers-want-regular-hours-tuc-poll-reveals

[107] Timewise (2026). "Work that works for the next generation: The role of job quality in tackling youth inactivity." Unpublished.

than providing a gateway into work, sectors with large numbers of VHWs are actually driving workers out of the labour market.

Employers may argue that certain higher paid workers, and workers in particular roles, such as sports referees or exam invigilators, prefer the flexibility of their existing contractual arrangements. The Employment Rights Act 2025 allows workers to choose to keep their existing contract if they wish to do so.

We think that it is important that there is not an exception made for employers of public sector staff such as NHS bank staff. As we have discussed above, it is vital for instance that frontline NHS staff bank workers receive the same rights to guaranteed hours as directly engaged workers, regardless of the mechanism by which they are engaged. Just as there should be no carve-out in regulations that that might allow chronic staff shortages in the NHS to be inaccurately defined as a “temporary need,” neither should there be a carve out to exempt NHS bank staff employers specifically.

The consultation document also raises the prospect of workers with multiple contracts at the same employer. It considers the case where a worker has more than one contract with the same employer and one of these contracts exceeds the contractual hours threshold, suggesting that in this circumstance, the worker could be excluded from the right to guaranteed hours for all of their contracts with the employer. Regulation should not be created to exclude a worker in this circumstance. The right should apply to each contract, independent of other contracts the worker may have. Returning to NHS bank staff, employers may again argue that workers with a substantive role, who do supplementary NHS bank work through a separate arrangement, value the flexibility of their bank arrangements. Again, the Employment Rights Act 2025 allows workers to keep their existing contract if it works for them.

The government should not create any regulations to exclude any type of workers from the right to guaranteed hours.

Q27.a: Should there be any specific circumstances in which you think employers should be exempt from the right to guaranteed hours?

No, there are no circumstances in which employers should be exempt.

Q27.b: If yes, please list any specific circumstances in which you think employers should be exempt from the duty to make guaranteed hours offers to qualifying workers.

We have answered no.

Q27.c: If no, please explain your answer

The government should not create any regulations to exempt any employers from the duty to make a guaranteed hours offer to qualifying workers, whether based on exceptional circumstances in respect of the reference period or a specified description. As set out previously, we agree with the government's objective to rebalance labour market flexibility because workers are not well equipped to bear the employer's risks of uncertain demand. A business model that relies on exploiting workers to keep the business going or to grow it is not a sustainable business model. It would run counter to the government's manifesto ambitions if employers who make particularly high use of variable-hours arrangements now were given an exemption.

In respect of exceptional circumstances in respect of the reference period, the consultation notes (**emphasis** ours): "The specified exemptions would be triggered automatically where a specified circumstance applies, **resulting in a guaranteed hours offer being withdrawn**, and would not require an agreement to be made by either party." The illustrative example provided is to exempt an employer whose premises are flooded and are unable to trade whilst their business is closed. We are particularly concerned if there is any suggestion that contractual terms following a guaranteed hours offer could in any way be withdrawn after the employee has agreed it. Furthermore, a mechanism already exists to help employers manage risks associated with unexpected disruptions such as this, insurance, specifically business interruption insurance, to cover running costs or losses, for example salaries or loss of profit.[108] Workers should not bear the employer's financial risk of running a business.

We specifically oppose any exemption for new or small businesses. According to the latest government statistics, at the start of 2025, 60 per cent of total employment across the UK was in small-to-medium enterprises (SME's). SMEs employ fewer than 250 employees. Forty-seven per cent of total employment was specifically in small businesses—those with less than 50 employees.[109] Based on TUC analysis of the LFS,[110] VHW employment follows a similar skew toward smaller employers.[111] Nearly three-in-four (73.0 per cent) of VHWs in Great Britain in the first quarter of 2026 reported working for an SME, with over half (51.2 per cent) reporting working for a small business (less than 50 employees) specifically. It would be a significant missed

---

[108] Gov.uk (2026). "Prepare for flooding." www.gov.uk/prepare-for-flooding/get-insurance

[109] Department for Business & Trade (2 October 2025). "Business population estimates for the UK and regions 2025: statistical release." *Official statistics*, Department for Business & Trade. www.gov.uk/government/statistics/business-population-estimates-2025/business-population-estimates-for-the-uk-and-regions-2025-statistical-release

[110] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

[111] Some of the difference between the latest UK business population estimates and our VHW's in GB results may reflect the different time period, different geographic spread, and the potentially lower reliability of reporting of this type in the LFS. However, we get similar results to the UK business population estimates when using the LFS Q1 2026 data for all workers in GB. Around 65.7 per cent of all workers in GB reported working for an SME, with 43.3 per cent reporting working for a small business (less than 50 employees) specifically.

opportunity for ending one-sided flexibility for all workers if SMEs, who employ the majority of VHWs, were exempted from the duty to offer guaranteed hours.

We also specifically oppose any exemption for particular industries. TUC analysis of the LFS[112] indicates that the majority of VHWs work in just four industries. Hospitality (accommodation and food services) workers make up the largest proportion of VHWs overall (17.8 per cent). This is closely followed by health and social work (16.6 per cent), wholesale, retail, and repair of vehicles (12.5 per cent), and education (9.6 per cent). For example, residential care employers often now use ZHCs even though there is predictable demand for services, minimum staff levels for regulatory purposes, rosters for work schedules drawn up six months in advance and a very formal process for staff to request annual leave or absence in advance.[113] ZHCs are not used to cope with fluctuating demand but to keep the power balance in the workplace skewed towards the employer. Boosting employer profit margins and holding down employer costs does not justify the continued exploitation of workers. It would be a significant missed opportunity for ending one-sided flexibility for all workers if employers in any of these industries specifically were exempted from the duty to offer guaranteed hours.

The Employment Rights Act 2025 also allows collective agreements between trade unions and employers to specify tailored conditions which would benefit both the workers and the employer. Strong legal minimum protections for workers, with tailored divergence collectively agreed between trade unions and employers, is clearly workable in international contexts. For example, in France's renowned hospitality sector, workers in hotels, cafes and restaurants benefit from such arrangements. There is no system in France comparable to ZHCs in the UK, where employers can be under no obligation to provide any minimum amount of work. While hospitality sector employers do have a certain degree of flexibility in organising working time, this flexibility is regulated both by the Labour Code and by the national collective agreement for Hotels, Cafés, and Restaurants (HCR).[114] This collective agreement provides key worker guarantees, including:

- **Working hours are defined in the employment contract.** For part-time employees, the contract must specify the weekly or monthly working time, how these hours are distributed, and the conditions under which this distribution may be modified.
- **Changes to working schedules are strictly regulated.** Any change to the distribution of working time must, in principle, be notified to the employee at least seven days in advance. This notice period may only be reduced in

[112] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.
[113] UNISON (2016). WOW0049 – Evidence on Future World of Work https://committees.parliament.uk/writtenevidence/76134/html/
[114] France (2026). "Convention collective nationale des hôtels, cafés restaurants (HCR) du 30 avril 1997." www.legifrance.gouv.fr/conv_coll/id/KALICONT000005635534

exceptional circumstances, in which case compensation provided for by the collective agreement applies.

- **Additional hours are limited.** Employers cannot freely increase working time. Additional hours (*heures complémentaires*) are capped and must be paid with a salary premium.
- **Split shifts during the day are regulated.** The collective agreement regulates working time arrangements by limiting long unpaid interruptions between two working periods.
- **A minimum working time is provided for.** French labour law generally establishes a minimum working time of 24 hours per week for part-time contracts,[115] which the HCR collective agreement does not reduce.

The French hospitality sector demonstrates that it is possible to reconcile employers' desire for flexibility with minimum guarantees for workers. The French model is based on social dialogue and collective bargaining rather than leaving employers with complete discretion to organise working schedules.

Q28.a: Should there be any types of agency workers that are excluded from the right to guaranteed hours?

No. There should not be certain types of agency workers excluded.

Q28.b: If yes, please list any types of agency workers that you think should be excluded from the right to guaranteed hours.

We have answered no.

Q28.c: If no, please explain your answer

No types of agency workers should be excluded. This is for all the same reasons that we have already stated that there should be no types of directly engaged workers excluded. Furthermore, as we have also stated above, the right to guaranteed hours should be implemented consistently for all VHWs, whether directly engaged or agency workers. The government should not create any regulations to exclude any type of workers from the right to guaranteed hours.

There are sectors such as health and social care where there is significant use of agency workers on ZHCs. This has profound consequences for the workers in those sectors. For example, the Work Foundation report *In Limbo* reports the experience of "Chloe", an agency care worker in South East England. She records in her digital diary supplied to researchers of a day when she was sent home at lunchtime because the adult she cares

---

[115] France (2026). "Salarié à temps partiel : quelle est la durée hebdomadaire minimale de travail?"
www.service-public.gouv.fr/particuliers/vosdroits/F1915

for would be going to sleep. As a result she didn't earn enough to even cover the cost of her daughter's childcare.[116]

Q29.a: Should there be any specific circumstances in which you think the duty to make a guaranteed hours offer to qualifying agency workers should not apply?

No, there are no circumstances in which the duty should not apply.

Q29.b: If yes, please list any specific circumstances in which you think the duty to make a guaranteed hours offer to qualifying agency workers should not apply

We have answered no.

Q29.c: If no, please explain your answer

There are no circumstances under which the duty to make a guaranteed hours offer to qualifying agency workers should not apply for all the same reasons we have already stated that this is also the case in respect of directly engaged workers. Furthermore, as we have also stated above, the right to guaranteed hours should be implemented consistently for all workers, whether directly engaged or agency workers. The government should not create any regulations to define circumstances under which the duty to make a guaranteed hours offer to qualifying agency workers does not apply.

Q30.a: Do you think there should be any cases where the duty to make a guaranteed hours offer should be placed on the agency or another intermediary instead of on the hirer?

Yes. There should be cases where the duty to make a guaranteed hours offer should be placed on the agency.

It is also vital that the regulation takes account of the role of umbrella companies, which are often used by agencies to formally employ the workers they send on assignments. It is essential that the use of these does not provide a loophole allowing agencies and end hirers to avoid their responsibilities by placing them on an umbrella company.

Umbrella companies create complexity for agency workers, including in being able to identify who their actual employer is. The Director for Labour Market Enforcement

---

[116] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

recognised that for lower paid workers, umbrella companies create difficulties in establishing who is responsible for aspects of their terms and conditions, noting that "[f]or workers seeking to resolve concerns there can be a 'pass the buck' mentality by entities in the labour supply chains."[117] The TUC has previously highlighted that umbrella companies do not always carry out their responsibilities as an employer effectively, denying umbrella workers access to the employment rights framework.[118]

As umbrella companies play an additional role for many agency workers in the worker/agency/hirer relationship, it is important that the regulations and guidance are designed to maximise clarity about responsibility for offering guaranteed hours contracts (as well as reasonable notice and compensation).

Q30.b: If yes, for which types of agency worker do you think the duty to make a guaranteed hours offer should be placed on the agency or another intermediary instead of on the hirer?

This question implies a binary choice, with the duty either falling on the hirer or not. Within that context, there are circumstances where it's more appropriate for the duty to make a guaranteed hours offer to be placed on the agency instead of the hirer. These are instances where the agency either has already provided the worker with contractual hours or is the worker's consistent point of contact across multiple hirers.

The duty should be placed on the agency where the agency worker has an existing minimum hours contract with the agency instead of the hirer, regardless of whether they perform work for one or multiple hirers.

The duty should also be placed on the agency where the agency worker is expected to perform work across more than one hirer. This nuance aligns with the principle of achieving the widest inclusion of worker coverage. For instance, supply teachers working through an agency may otherwise miss out on the right entirely due to the nature of their work if frequently changing across different hirers (i.e. schools) on successive short-term assignments.

However, as we set out in our submission to the consultation on the *Application of zero-hours contracts measure to agency workers,*[119] agencies and hirers should have

---

[117] Director of Labour Market Enforcement (2023). "Labour Market Enforcement Strategy 2022 to 2023." www.gov.uk/government/publications/labour-market-enforcement-strategy-2022-to-2023

[118] Trades Union Congress (5 Sep 2023). "Tackling non-compliance in the umbrella company market." www.tuc.org.uk/research-analysis/reports/tackling-non-compliance-umbrella-company-market

[119] Trades Union Congress (2 December 2024). "Application of zero-hours contracts measures to agency workers." www.tuc.org.uk/research-analysis/reports/application-zero-hours-contracts-measures-agency-workers

joint and several liability for this duty to all agency workers. This is to minimise the risk that a worker's right to a guaranteed hours contract would not be fulfilled by allowing them to seek redress against either of party. This approach would recognise that both the agency and end hirer already have relevant legal responsibilities regarding information which would then be pertinent to a guaranteed hours contract:

- Before a placement starts, the agency must get information from the end hirer on the expected duration of the placement and workings hours.[120]
- The agency must give the employee or worker a written statement of employment particulars. This must include the start date, the date that continuous employment started for an employee, the date that 'continuous employment' (working for the same employer without a significant break) started for an employee, and how long the job is expected to last if it is temporary or fixed term.[121]
- The agency is responsible for paying the worker for hours worked and is required to comply with National Minimum Wage record keeping requirements, so there is therefore ongoing record keeping and communication between the agency and end hirer about working hours.[122]

So, under current regulations, the agency and end hirer are both required to establish information that is relevant to the right to guaranteed hours and any related duty on the employer and other relevant parties. This includes whether the worker or employee is hired on a zero or low hours contract, if the contract is temporary or permanent and information about 'continuous employment' which is relevant to the reference period. They should also both hold information that is necessary to calculate the number of guaranteed hours that should be contracted (in respect of work for the single hirer), as well as whether the employment contract is temporary or permanent.

Also relevant, is, as we have mentioned elsewhere, that under the *Agency Worker Regulations 2010*, agency workers are entitled to equal treatment in respect of basic working and employment conditions, including equal pay, with directly employed workers after a reference period of 12 weeks.[123] The right to equal treatment already

---

[120] HM Government (2026). "Employment agencies and businesses: Before placing a worker with a hirer." www.gov.uk/employment-agencies-and-businesses/before-placing-a-worker-with-a-hirer

[121] ACAS. (2026). "Written statements: what must be included." www.acas.org.uk/what-must-be-written-in-an-employment-contract/what-the-written-statement-must-include

[122] HM Revenue and Customs (7 April 2026). "National Minimum Wage Manual: NMWM12020 – Records, evidence, powers and offences: records." *HMRC internal manual,* HM Revenue & Customs. www.gov.uk/hmrc-internal-manuals/national-minimum-wage-manual/nmwm12020

[123] UK Government (6 February 2026). "Make Work Pay: Modernising the Agency Regulatory Framework." *Consultation document*, UK Government. www.gov.uk/government/consultations/make-work-pay-modernising-the-agency-work-regulatory-framework

creates obligations for both the agency and end hirer in terms of communicating relevant information and agreeing relevant contractual terms to deliver this entitlement.

- The agency must ask the end hirer for information about pay and basic working conditions (when it is clear that the agency worker will be in the same job with the same hirer for more than 12 weeks) so that they are treated as if they had been directly recruited to the job.
- The end hirer must provide their agency with up-to-date information on their terms and conditions so that they can ensure that the agency worker receives the correct equal treatment, as if they had been recruited directly, after 12 weeks in the same job.[124]

We expect that the right to equal treatment will also mean that guaranteed hours contracts that workers receive will need to comply with equal treatment provisions i.e. reflect the same rights as those employed directly. This will sit tidily should the initial 12-week reference period for guaranteed hours align with the agency worker reference period for equal treatment, as we have proposed.

Making both the agency and end hirer responsible for offering the guaranteed hours contract, would also put the employee or worker in a stronger position in cases of non-compliance. It would mean that they would not have to identify which party was at fault and the agency or end-hirer could not blame the other for the non-compliance and delay recourse.

Were responsibility to sit with the end hirer *only*, the worker would only have a right to recourse if they were able to identify the end hirer, which means that they are reliant on the written statement provided by the agency being accurate – which is not always the case. Were responsibility to sit with the agency *only*, the worker may be disadvantaged if the agency goes bankrupt and they had no basis on which to make a claim on the end hirer. Joint liability would also protect workers in circumstances which create further complexity, such as when a joint employment model is used.[125]

We recognises that Schedule One of the Employment Rights Act 2025 reflects the government's previously set out preference for the duty to fall on only one party, and a decision to place this duty, where applicable, on the hirer, except where the Secretary of State has laid regulations specifying the description of agency workers where "a work-finding agency, or another person involved in the supply or payment of an

---

[124] Department for Business & Trade and Employment Agency Standards Inspectorate (2019). "Agency Workers Regulations 2010: guidance for recruiters." www.gov.uk/government/publications/agency-workers-regulations-2010-guidance-for-recruiters

[125] Fair Work Agency (7 April 2026). "Notice: Fair Work agency note: Joint employment models in the recruitment sector." www.gov.uk/government/publications/eas-note-joint -employment-models-in-the-recruitment-sector

agency worker, is instead required to make a corresponding or similar offer (and is liable to have a complaint against them presented to an employment tribunal…"[126]

However, it's imperative that recruitment via an agency does not create a loophole that allows unscrupulous employers to get around providing the full roster of employment rights and entitlements. Whoever controls the work must be held to account, whether it's the agency or the hirer.[127]

We therefore urge the government to explore whether the powers provided in the Employment Rights Act 2025 would allow for joint and several liability for the duty to make a guaranteed hours offer to fall on both the hirer and the agency. This is to minimise the risk that a worker's right to a guaranteed hours contract would not be fulfilled by allowing them to seek redress against either of them.

Q30.c: If no, please explain your answer

We have answered yes.

Q31: Are there any other ways in which the right to guaranteed hours would need to apply differently to these types of agency worker? For example, should the regularity requirements relate to the work done by the worker for any hirer while employed by the agency in scenarios where the duty to make a guaranteed hours offer would fall on the agency or another intermediary instead of on the hirer?

As we have said in Question 30.b, our strong preference is for joint and several liability for the duty to make a guaranteed hours offer to call on both hirers and agencies, and we urge the government to explore whether the powers provided in the Employment Rights Act 2025 would allow for this. This is to minimise the risk that a worker's right to a guaranteed hours contract would not be fulfilled by allowing them to seek redress against either of them.

However, in the scenario where a binary choice is required, the duty to make a guaranteed hours offer should be placed on the agency where the worker has an existing minimum hours contract with them or is expected to perform work across more than one hirer. This would help to achieve coverage of workers, for instance in the case of supply teachers working through an agency, who would likely otherwise miss out on the right entirely due to the nature of their work frequently changing across

[126] Employment Rights Act 2025, Schedule 1, Schedule A1, Part 1, *Right to Guaranteed Hours*, sub-section (12)(1)(a).

[127] Wieltschnig, P. (4 Feb 2026). "Behind the app: Bogus self-employment and the rise of talent platforms." www.tuc.org.uk/research-analysis/reports/behind-app

different hirers (i.e. schools) when providing successive short-term cover at different schools through the same agency.

The right to guaranteed hours should apply as consistently as possible to directly engaged and agency workers alike as a general principle. Agency work must not become a route through which employers can avoid providing security and predictability. This is the simplest, fairest, and best anti-avoidance approach, to avoid creating any loopholes whereby employers would be incentivised to recruit through an agency rather than directly to evade the duty to provide a GHC. VHWs, whether directly engaged or an agency worker, need and deserve security and stability of their hours and income. They should not be expected to bear the employer's risks of uncertain demand. Nor should the government miss the opportunity to stamp out exploitative practices in sectors like care, which rely on large numbers of agency workers on ZHCs.

As we have stated above, the eligibility requirements for the right to guaranteed hours should also be kept as simple as possible. That is why our strong preference is that no regularity test is set at all. The more stringent any regularity test is set, the less likely the right to guaranteed hours will benefit the workers who need it most: those who suffer from the most unpredictable working patterns and most insecure incomes. However, if a regularity test is set, we have urged for it to apply the same for directly engaged and agency workers to maintain simplicity.

However, limited nuances are required to account for the more complex employment relationship of agency workers, which should be designed with the continued aim of achieving the widest worker coverage. Although we disagree with setting a regularity test, if one is set, we agree that any regularity requirements set should relate to the work done by the worker for any hirer while employed by the agency, where the duty to make a guaranteed hours offer applies to that agency instead of on the hirer. However, our strong preference is also for joint and several liability for the duty to make a guaranteed hours offer to fall on both hirers and agencies, as stated.

Q32.a: Do you think that our proposals in Part 1 of this consultation, on the right to guaranteed hours, will have a particular impact on groups sharing a protected characteristic under the Equality Act 2010?

Yes.

Q32.b: Please explain your answer.

As previously stated, all workers should have the right to a GHC that reflects their regular hours of work. Consequently, it is important that the implementation of the right to guaranteed hours is simple and inclusive. To the extent that some workers may miss out or even be made worse off under some of the options in Part One of the consultation (e.g. by establishing an hours threshold, especially if it is below full-time hours), it is relevant to keep in mind the protected characteristics of VHWs, as provided earlier based on TUC analysis of the LFS.[128]

- **The majority of variable-hours workers—52.4 per cent—are women**. Some 39.1 per cent of VHWs are white women and 13.3 per cent are BME women.
- **BME workers, especially women, are more likely to be a variable-hours worker than white workers.** Around 11.9 per cent of BME women workers and 10.8 per cent of BME men workers are VHWs, compared with around 7.8 per cent for white men and 8.5 per cent for white women workers.
- **Young workers (aged 16-24) are two-to-three times more likely to be variable-hours workers than older workers of working age.** Around 20.0 per cent of workers aged 16-to-24 are VHWs, compared to just 6.2 to 8.4 per cent of workers up to the state pension age.
- **Disabled workers are more likely to be VHWs than non-disabled workers.** Around 9.9 per cent of disabled workers are variable-hours workers, compared to 8.5 per cent of non-disabled workers.

Every worker that wants one, should have a contract that reflects the hours they regularly work. Falling short of this outcome risks exacerbating existing workplace disadvantage, particularly as it pertains to women, BME workers, and young people.

Q33: Is there anything else you want to tell us in relation to Part 1 of this consultation, on the right to guaranteed hours?

This consultation seeks detailed input regarding the method of calculating the number of hours required when the duty to offer a GHC is triggered, to which we have responded. However, we are concerned that the consultation document is silent on the working pattern of the guaranteed hours to be offered. It is essential workers are not made guaranteed hours offers that, for example, expect them to undertake unsocial working that they were not doing during the reference period or that they are unable to take up because they conflict with caring responsibilities. Allowing such employer discretion on working patterns would also open up the potential of employers offering contracts with patterns of work they know will be rejected in order to keep a worker on a variable hours arrangement.

The Employment Rights Act 2025 specifies in Section 27BB, *Requirements relating to a guaranteed hours offer*, sub-sections (2-3) that the Secretary of State may issue regulations that set out conditions for determining that an offer 1.) includes appropriate details of the guaranteed hours working pattern and that 2.) these reflect the working pattern of the worker during the reference period. In the absence of such regulation, the Employment Rights Act 2025 notes that, "the offer is a guaranteed hours offer for the purposes of this Chapter only if it also proposes terms and conditions

[128] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

relating to when the offered number of hours are to be provided and worked (which need not be on particular days of the week, or at particular times on those days, or by reference to a particular working pattern of days or times of day)."[129]

Section 27BB (8)(b)(i) requires that terms and conditions in the offer "that, taken as a whole, are no less favourable than the terms and conditions of employment relating to matters other than working hours and length of employment that the qualifying worker had when working for the employer during the relevant reference period." We are concerned that this provides insufficient protection to workers.

Unions are concerned that without regulations ensuring that the contract reflects the previous working pattern, there is a risk that some employers may intentionally or inadvertently issue a guaranteed hours offer that substantially differs from the worker's working pattern during the reference period or which allows for continued significant variation in working pattern from week-to-week. Recent research by the Work Foundation particularly highlighted the difficulties that ZHC workers face when trying to manage their 'work-life chaos'—reflective of a feeling that their employers expected them to be available at all hours, regardless of, for example, childcare arrangements or medical appointments.[130]

Requiring a contract offer to reflect previous working patterns aligns with our proposals above that the period of a guaranteed hours offer ought to reflect any existing contractual arrangements (i.e. weekly, monthly, annualised, term-time).

Q34.a: What do you think the hours threshold for the rights to reasonable notice and short notice payment should be for directly engaged workers?

Other. The TUC proposes no threshold. If one is imposed, it should be several hours above that governing access to a guaranteed hours contract.

Q34.b: Please explain your answer

Trade unions believe there is no need for an hours threshold for a right to notice of shifts or compensation for cancelled shifts. The government's *Plan to Make Work Pay* was quite clear that "We will ensure all workers get reasonable notice of any change in

---

[129] Employment Rights Act 2025, Section 27BB, *Requirements relating to a guaranteed hours offer*, sub-section (4).

[130] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

shifts or working time".[131] The TUC agrees that all workers should be granted such rights and see no reason to limit the right based on a worker's contractual hours.

An array of evidence, including from the Low Pay Commission, whose work underpins these reforms, has found that lack of notice is often down to poor business practice among some employers. "Stakeholders have told us that some workers are allocated shifts with limited notice which makes it difficult for them to plan their lives or to find other work if needed. By contrast, other employers work hard to plan ahead and give notice of forthcoming requirements, and find that this benefits both the worker and the business."[132]

The impact of lack of notice on workers is significant. Workers tell of having to constantly check messaging apps for details of shifts becoming available.

The authors of the Work Foundation's *In Limbo* report following the lives of ZHC workers stated: "Given the need participants felt to be constantly available for work, many experienced a blurring of the boundaries between 'work' and 'free time'. Some described themselves as constantly checking platforms such as WhatsApp or Microsoft Teams to see when new shifts became available. Participants also felt anxious about being called in to work during their free time."[133]

Restricting access to reasonable notice to only some workers will allow poor practice to continue.

A threshold also adds to the complexity of the policy, making it harder for workers and employers to implement.

However, if there is to be an hours threshold governing the right to reasonable notice of shifts, the TUC proposes that this is set several hours above that for the hours threshold for the right to a guaranteed hours. As set out above, the TUC assesses that if an hours threshold for eligibility for a guaranteed hours contract is to be set, it should be at full-time hours. We define that as 48 hours. We showed above that an hours threshold in the proposed range of eight to 20 hours could exclude between 1.1 million and 1.4 million VHWs, of a population of 2.5 million VHWs.

The aim of this policy should be to drive improved behaviour among employers, including greater professionalism in the management of staffing and rotas. Otherwise

---

131 The Labour Party (2024). "Labour's plan to make work pay: Delivering a New Deal for Working People." https://labour.org.uk/wp-content/uploads/2024/05/LABOURS-PLAN-TO-MAKE-WORK-PAY.pdf

132 Low Pay Commission (2018). *LPC response to the government on one-sided flexibility* www.gov.uk/government/publications/low-pay-commission-response-to-the-government-on-one-sided-flexibility

133 Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

workers bear the financial risk and personal inconvenience that comes with last-minute shift notifications and cancellations.

Likewise, short notice of shifts will leave any worker struggling to arrange cover for caring arrangements or attempting to balance the demands of other jobs.

Having a separate higher threshold would deter an employer from employing workers on just above the guaranteed hours threshold to evade the responsibilities that that would entail.

If the government sets an hours threshold lower than the 48 hours that we advocate, it would be particularly important to have a higher threshold before losing rights to shift notice and compensation because such workers would still be highly vulnerable to last minute changes given the continued variable element of their contract.

Q35.a: Agency workers should not be entitled to the right to reasonable notice and the right to short notice payments when:

They already have a contract guaranteeing hours above the threshold specifically in respect of work to be done for one hirer (for example, by their agency).

Q35.b: Please explain your answer

We believe it would be difficult for workers and employers to aggregate work across multiple hirers and would therefore be harder to enforce.

It is vital that the legislation take account of the role of umbrella companies which are often used by agencies to formally employ the workers they send on assignments. It is vital that the use of these does not provide a loophole allowing agencies and end hirers to avoid their responsibilities.

It is crucial for this policy to be effective and for the quality of work for agency staff that they are subject to equivalent rules to those for directly engaged workers.

Q36.a: What do you think the hours threshold for the right to reasonable notice and the right to short notice payments should be for agency workers?

Other (please specify). The TUC proposes no threshold. If one is imposed, it should be several hours above that governing access to a guaranteed hours contract.

Q36.b: Please explain your answer

In line with our approach elsewhere in this response, we urge consistent rules across directly-employed and agency workers.

Q37.a: How much notice should be presumed reasonable for directly engaged workers?

4 weeks

Q37.b: Please explain your answer

The TUC advocates that a four-week notice period should be presumed reasonable.

Providing for a week's notice would do little other than cement existing bad practice encountered by many workers. Polling by the Living Wage Foundation found that three-fifths of workers whose job involves variable hours or shift work reported having less than a week's notice of their work schedules.[134] We would guide against current practice as to shift notice being any sort of guide for the most appropriate statutory regime.

Four weeks gives workers time to put in place arrangements such as childcare, which cannot be done in a shorter time frame, and to sort out travel arrangements.

It recognises, too, that workers are entitled to a decent quality of private life, which cannot be achieved if only short notice of work is given. If workers are told of shifts at short notice they often have to cancel other arrangements, particularly if they are worried that turning down one shift means they will be denied future work. Making formal childcare arrangements at only a week or two's notice is also virtually impossible, forcing workers to take on expensive regular slots that might only sometimes coincide with shift allocation or seek to use inadequate informal arrangements.

The Work Foundation's *In Limbo* report found that uncertain work patterns adversely impacted participants' personal relationships and made it harder to plan for socialising, personal care, and Universal Credit or healthcare appointments.[135]

We note, too, research from the United States that found that workers who receive shorter advanced notice, those who work on-call, those who experience last minute shift cancellation and timing changes, and those with more volatile work hours are more likely to experience hunger and housing issues among other hardships.[136]

---

[134] Living Wage Foundation (15 April 2021). "Almost Two-Fifths of Working Adults Given Less Than a Week's Notice of Working Hours" www.livingwage.org.uk/news/almost-two-fifths%C2%A0-working-adults-given-less-weeks-notice-working-hours

[135] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

[136] Schneider, D. and Harknett, K. "Hard Times: Routine Schedule Unpredictability and Material Hardship among Service Sector Workers", *Social Forces,* Volume 99, Issue 4, June 2021, Pages 1682–1709, https://academic.oup.com/sf/article/99/4/1682/5890832

Research shows that moving to greater notice of shifts improves workers' well-being, sleep quality and economic security. After the introduction of laws governing shift notice in Seattle, a study of 754 covered workers in the city and a comparison group of several thousand workers at the same set of employers in other large US cities with a similar minimum wage found relative improvements in happiness, sleep quality and material hardship.[137]

It is notable that ZHCs are common in sectors such as care where demand is highly predictable and employers are likely to have regular and steady demand for labour,[138] This strongly suggests that providing decent notice is highly achievable.

We note that the legislation provides for exemptions from the statutory protections where there is a collective agreement. It is through such an agreement that workers and employers can put in place arrangements that are most appropriate for that particular workplace.

Q38: In what circumstances do you think longer notice should be required? Please explain your answer

Q39: In what circumstances do you think shorter notice should be required? Please explain your answer

For such a new system to be effective, it needs to be easy to understand so that employers are able to effectively implement it and workers are able to understand what their rights are to enforce them.

It is desirable for employers to provide as long a notice period as possible. In most workplaces staffing should be at such a level that bringing in cover at short notice is unnecessary.

Again, we note that the legislation provides for exemptions from the statutory protections where there is a collective agreement. It is through such an agreement that workers and employers can put in place arrangements that are most appropriate for that particular workplace. This may well allow for longer notice periods, or shorter notice periods in some circumstances where the particular situation of the workplace requires it. But this should be a matter to be agreed between the employer and the workers through their representatives, not determined in regulations.

---

[137] Smith, J. (12 October 2021). "Research finds that more predictable worker scheduling improves health and well-being," Harvard University www.hks.harvard.edu/faculty-research/policy-topics/social-policy/research-finds-more-predictable-worker-scheduling

[138] Dix, G et al. (November 2023). "Zero hours contracts: ReWage policy brief (ReWage)." https://warwick.ac.uk/fac/soc/ier/rewage/news-archive/rewage_policy_brief_zero_hours_contracts.pdf

Any additional exemptions from what we propose is a standard four-week notice period should be extremely tightly drawn and limited to only emergency situations where failure to fill the position would have very serious consequences.

Q40.a: How much notice should be presumed reasonable for agency workers?

4 weeks

Q40.b: Please explain your answer

The TUC would like to see agency workers given the same notice of shifts as other workers.

The average length of an agency worker's assignment was 18 weeks during 2024. This strongly suggests that most agency workers are not being called in for last minute shifts, rather that the work they are undertaking could be anticipated well in advance. The regulations should reflect this norm.[139]

Q41: In what circumstances do you think longer notice should be required for agency workers? Please explain your answer

Q42: In what circumstances do you think shorter notice should be required for agency workers? Please explain your answer

As above, we urge the government to take account of provisions in the legislation that allow exemptions where collective agreements are in place. This is the appropriate mechanism for putting in place effective working practices where notice periods should be longer or shorter than four weeks to reflect the particular needs of that workplace.

Workers should not bear the burden of short notice periods to allow employers to operate with inadequate levels of staffing.

Any additional exemptions from what we propose is a standard four-week notice period should be extremely tightly drawn and limited to only emergency situations where failure to fill the position would have very serious consequences.

---

[139] Recruitment & Employment Confederation (8 December 2025). "Recruitment sector contributes more than £40 billion a year to the UK economy despite tough job market." www.rec.uk.com/our-view/news/press-releases/recruitment-sector-contributes-more-40-pounds-billion-year-uk-economy-despite-tough-job-market

Q43.a: Should there be any types of hirers that should not be liable for failing to provide reasonable notice?

Yes, certain types of hirers should not be liable for failing to provide reasonable notice.

Q43.b: (if yes) Please specify any types of hirers that you think should not be liable for failing to provide reasonable notice.

Vulnerable employers should not be liable for failing to provide reasonable notice.

Q43.c: Please explain your answer

It is important that all workers are entitled to the new rights. It may be appropriate where a vulnerable user commissions care through an agency that responsibility for reasonable notice is with the agency. However, it is vital that this is made clear to the worker concerned so that they know how to enforce their rights.

However, the TUC strongly opposes blanket exemption for end hirers in particular sectors.

Q44.a: What timeframe do you think short notice should be for directly engaged workers?

7 days

Q44.b: Please explain your answer

Workers should not bear risks on behalf of their employer.

If a shift is cancelled or curtailed less than a week in advance, workers should be compensated.

It is hard for a worker to obtain replacement work at only a few days' notice. On top of this they may have already incurred expenses such as childcare or travel costs.

The Work Foundation's *In Limbo* report lays bare how variable-hours contracts allow poor management practices such as having too many staff on shift and then forcing them to decide among themselves who is going home.

A waitress called Michelle told the researchers of her experience of one shift during a week she recorded in her diary: "It wasn't super busy, but enough to justify 2 of us for the first few hours. Once it got to around 8pm, the [club] manager said we should choose one of us to go home amongst ourselves. We decided that as the other person started earlier, she would go and I'd stay to make it more fair. Otherwise I'd have only worked 2 and a half hours." [140]

Workers should not have to bear the consequences of incompetent shift scheduling or unexpected changes in demand.

This legislation should bring about a significant change in the way that many employers run their staffing. The incentive should be on robust planning.

The costs of unforeseen events should not be borne by the workers themselves, many of whom are among the lowest paid in the labour market.

Q45.a: What timeframe do you think very short notice should be for directly engaged workers?

There should not be a 'very short notice' period.

Q45.b: Please explain your answer

Full compensation should be due for shifts cancelled within seven days. There is therefore no need for a separate regime relating to very short notice cancellations.

The addition of two separate short notice compensation systems would produce a significant risk that employers and workers struggle to understand them.

Q46.a: What timeframe do you think 'short notice' should be for agency workers?

7 days

Q46.b: Please explain your answer

The compensation regime for agency workers should reflect that for directly engaged workers.

These workers face the same challenges when a shift is cancelled at short notice, including having incurred travel and caring costs and the difficulty of obtaining replacement work.

Workers should not bear business risk.

Alternative arrangements should only be made via collective agreement, allowing workers to have a voice in the process.

---

[140] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

Q47.a: What timeframe do you think 'very short notice' should be for agency workers?

There should not be a 'very short' notice period

Q47.b: Please explain your answer

As with directly-employed workers, we do not see the need for a separate very short notice mechanism. Workers should receive full wages if shifts are cancelled or curtailed less than seven days before they take place.

Q48.a: The short notice payment should be:

A percentage of what the worker would have earned from working the shift or the relevant hours

Q48.b: Please explain your answer

It is extremely important that workers whose shifts have been cancelled or curtailed at short notice receive full payment for that shift.

Unions report that some employers schedule lots of workers for shifts then cancel the unwanted ones at the last moment. This is a practice that leads to hardship for workers and needs to be stamped out.

The TUC has previously demonstrated that insecure workers face a pay penalty.

Median gross hourly pay in 2022 for zero-hours workers was £9.40 compared to the median for all employees which was just above £14.[141]

Separate analysis by Trussell Trust found that just under a third (30 per cent) of people in paid work referred to Trussell Trust food banks are in insecure work, for example, ZHCs or agency work.[142]

TUC analysis of the LFS,[143] as we have mentioned above in Question 1.c. further indicates that VHWs in Great Britain are prominent in lower paid occupations. Nearly half (around 47 per cent) of VHWs work in just two lower paid occupations. Around one-in-three VHWs works in an elementary occupation (30.4 per cent). Around one-in-six VHWs works in a caring, leisure, and other service occupation (16.4 per cent).

---

[141] Trades Union Congress (2023). "Insecure work in 2023." www.tuc.org.uk/research-analysis/reports/insecure-work-2023

[142] Trussel Trust (2024). "A future without the need for food banks." https://cms.trussell.org.uk/sites/default/files/wp-assets/manifesto_2024.pdf

[143] This analysis reflects the January to March 2026 LFS. Please see Appendix: Variable-Hours Worker Methodology at the end of our submission for further explanation.

Those working in these lower paid occupations are also significantly more likely to experience variable-hours working than highly paid managers. Those working in caring, leisure, and other service occupations (16.0 per cent) are six times as likely as a manager (2.7 per cent) to be a VHW. Those working in elementary occupations (27.0 per cent) are ten times as likely as a manager (2.7 per cent) to be a VHW.

This means that VHWs are not well placed to absorb the impact of reduced wages.

In the Work Foundation's *In Limbo* report, care worker Chloe speaks of the strain caused by finding that her shift working with a young adult are often curtailed part way through the day. In one diary entry she discussed how "[t]houghts of work often take up my time on non-work days, especially if shifts get cancelled at short notice I'll have to go back and sometimes have a rethink of my budget for the following month where my pay will be lower".[144]

Therefore, we are strongly of the view that compensation for cancelled or curtailed shifts should be based on the actual wages due to the worker and should be set at 100 per cent.

Q49.a: If the short notice payment were a percentage of what the worker would have earned from working the shift or the relevant hours, what percentage should this be?

Other, 100 per cent

Q49.b: Please explain your answer

See answer to Q48b

Q50.a: If the short notice payment were a percentage of what the worker or agency worker would have earned from working the shift or the relevant hours at the relevant National Living/Minimum Wage rate, what percentage should this be?

Other

Q50.b: Please explain your answer

See answer to Q48b

---

[144] Williams, G.D., Redmond, J. & Martin, A. (2026). "In limbo: a week in the life of zero-hour contract workers." The Work Foundation at Lancaster University www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/WF_Inlimbo(July2026).pdf

Q51.a: If the very short notice payment were a percentage of what the worker would have earned from working the shift or the relevant hours, what percentage should this be?

Other 100 per cent

Q51.b: Please explain your answer

See answer to Q48b

Q52.a: If the very short notice payment were a percentage of what the worker or agency worker would have earned from working the shift or the relevant hours at the relevant National Living/Minimum Wage rate, what should this percentage be?

Other 100 per cent

Q52.b: Please explain your answer

See answer to Q48b

Q53.a: Do you think there should be any exceptions to the requirement to make a short notice payment or very short notice payment?

No

Q53.b: If yes, what should these exceptions be?

We have answered no.

Q53.c: If no, please explain your answer

As set out above, it is vital that workers are not asked to bear business risk that an employer is better able to withstand.

The consultation cites examples such as power outages as an incident that might lead to an employer no longer having to compensate a worker for a cancelled shift.

We think there is no reason why a worker would be better placed to shoulder the burden of an unexpected event than an employer. In many cases an employer would likely have other premises or work that could be undertaken. In contrast, as we evidence above, variable-hours workers are very likely to be low-paid.

This should apply as much to agency workers as it does to directly-employed staff. They are just as vulnerable to income shocks. Having less favourable arrangements in place for agency workers might lead to distortions where employers switch their staffing strategy to agency workers to avoid some of the restrictions of direct employment.

Q54.a: Do you think there should be any exceptions to the requirement to make a short notice payment specifically for agency workers?

No

Q54.b: If yes, what should these exceptions be?

We have answered no.

Q54.c: If no, please explain your answer

Agency workers are just as vulnerable to income shocks. Having less favourable arrangements in place for agency workers might lead to distortions where employers switch their staffing strategy to agency workers to avoid some of the restrictions of direct employment.

Q55.a: Do you think there are any types of hirers who should not be added to tribunal proceedings and potentially held liable for breaches regarding an exception notice?

Yes, vulnerable hirers, such as adults requiring care, should not be added to tribunal proceedings and potentially held liable for breaches regarding an exception notice.

Q55.b: (if yes) Which types of hirers do you think should not be added to tribunal proceedings and potentially held liable for breaches regarding an exception notice?

It is absolutely vital that workers are able to enforce their right to compensation for cancelled or curtailed shifts.

Where a hirer is particularly vulnerable, then it should be possible to recover payments from the agency. However, it should never be the case that a worker does not have a clear route to obtaining the payments.

Q55.c: If no, please explain your answer.

We have answered yes.

Q56.a: Do you think there are any types of hirers from whom it should not be possible to recover short notice payments under the Act?

Yes, there are certain types of hirers from whom it should not be possible to recover short notice payments under the Act.

Q56.b: If yes, from which types of hirers should it not be possible to recover short notice payments under the Act?

See the answer to Q55b

Q56.c: If no, please explain your answer

We have answered yes.

Q57.a: Should the FWA enforce the right to short notice payments?

Yes

Q57.b: Please explain your answer.

The TUC strongly agrees with the proposal that the Fair Work Agency enforce the right to short notice payments.

It is disproportionate to expect a worker to pursue small payments of this nature through the tribunal system.

This would risk the right becoming meaningless if workers opted not to seek the payments.

However, it is important that the FWA is active in ensuring that workers receive their money. This means having the resources to pursue individual claims as well as targeted action on particular sectors or geographical areas where compliance is low.

The FWA should also have a policy of close cooperation with trade unions, who when they bring cases to the FWA's attention should be kept informed of how the enforcement work is progressing.

We agree with the government's proposal that the six-year claim period should apply to short notice payments in line with the Notice of Underpayment civil penalty regime.

Q58: Should the FWA impose a penalty where it finds that an employer has failed to make a short notice payment?

Yes

Q59.a: What should the penalty amount be?

200 per cent of arrears owed to the worker

Q59.b: Please explain your answer.

It is important that new right is observed from the start. A significant penalty for failure to comply will ensure that rogue or disorganised employers follow the compensation regime from its introduction.

We note that the government has proposed in its consultation on the enforcement of holiday pay that the penalty should be 200 per cent of arrears owed. We think a similar approach is merited in this area. It is vital for the government to send a strong signal that short notice payments are not optional and that failure to pay them has real financial and reputational costs.

We note that in the consultation paper on holiday pay enforcement the government argues that this level of penalty is the same as the penalty settings for current enforcement of the minimum wage by the FWA.

The government states: "A 200% penalty strikes a balance between financially penalising businesses that do not comply with the law while also not imposing an excessively high burden on businesses."

We assess that the same logic applies here. Failing to compensate for cancelled shifts shouldn't be treated as a lesser failure.

Some respondents are likely to assert that a 50 per cent penalty would mirror that for failure to comply with minimum wage requirements when that was first introduced. This implies that lack of compliance could be put down to lack of awareness and penalties should reflect that.

But it is notable that compensation for cancelled shifts (even more than holiday pay) is likely to be an extremely small amount for the employers concerned, even if meaningful for the employees affected. A significant penalty is therefore needed on top to ensure that the consequences are significant.

We note that there has been extensive public debate on the passage of the Employment Rights Act 2025, much of which concerned one-sided flexibility reforms and involved the employer bodies for the sectors most likely to be affected. This is likely to have ensured significant employer awareness. Employers have also had many years since the introduction of the minimum wage to get used to higher standards of labour regulation. Awareness can also be boosted by the government working with trade bodies and unions in key sectors to raise awareness and provide support for employers.

Q60.a: What should the minimum and maximum penalty amount be?

Minimum £100 per case, maximum £20,000 per worker

Q60.b: Please explain your answer

It is important that the government does not send a signal that making compensation payments for curtailed or cancelled shifts is less important than paying the minimum wage. The maximum penalty for underpayment of the minimum wage is currently £20,000 and has been since 2014. We therefore think the maximum payment should sit at this level.

There is also a strong case for reviewing this maximum figure given that it has applied to minimum wage cases since 2014 and been strongly eroded by inflation. Had the maximum penalty been uprated by inflation every April since it was set at the current £20,000 level, in a similar manner to many benefits, it would have been nearing £30,000 by April 2026.[145]

Q61: Is there anything else you want us to take into account in relation to Part 2 of this consultation, on reasonable notice of shifts and payment for shifts cancelled, moved or curtailed at short notice?

The TUC is concerned that the proposal is to limit the FWA's enforcement role to short notice payments. We urge the government to consider further giving the FWA a remit for offering guaranteed hours contracts and providing notice of shifts as well. It is vital that observing these new rights becomes the norm. Having the FWA identifying areas of the labour market where this is not the case could be hugely valuable.

There will be particular challenges with individuals proving to an employment tribunal, when their case eventually gets there, that they have suffered financial loss as a result of a lack of notice. The ability of the FWA to remind employers of their responsibilities in this regard could be decisive.

Q62.a: Do you think that the proposals in Part 2 of this consultation, on reasonable notice of shifts and short notice payments, will have a particular impact on groups sharing a protected characteristic under the Equality Act 2010?

Yes

[145] The maximum penalty value of £20,000 was set at this level from 7 March 2014. Increasing this value by the prior September CPI rate each April (e.g. Sep 2013 for April 2014), assuming the value is frozen where there is a negative inflation rate, yields a value in April 2026 of around £28,937.

Q62.b: Please explain your answer.

It is notable that many of the issues covered in this consultation particularly affect those with protected characteristics.

Over half of all respondents to a recent TUC survey said they were not paid the last time their hours were cancelled. This rose to two-thirds among workers on ZHCs.

The issue was particularly acute for mothers and BME workers in insecure roles. Three quarters of these workers said they received no payment when their shifts were cancelled.[146]

This is why it is especially important that access to these new rights are not limited.

---

[146] Klair, A. (2025). "The scale of insecure work in the UK." *Research and reports,* Trades Union Congress. www.tuc.org.uk/research-analysis/reports/scale-insecure-work-uk

Appendix: Variable-Hours Worker Methodology

TUC analysis in this submission regarding the number and characteristics of variable-hours workers in Great Britain reflects the Labour Force Survey (January – March 2026).

We have restricted our estimate to those in Great Britain, reflecting the geographical coverage of the right to guaranteed hours in the Employment Rights Act 2025.

We have defined 'variable-hours worker' as those who are on zero-hours contracts, agency workers and those who are paid hourly and had hours which varied week-to-week. We estimate there to be around 2,520,000 variable-hours workers in Great Britain, rounded to the nearest 1,000 workers.

The estimated total number includes those who are an employee in their main job and are at least one of the below:

1. ZHC workers: Workers whose main job is on a zero-hours contract
2. Agency workers: Workers whose main job is permanent and as an agency worker or whose main job is temporary and for an employment agency
3. Hourly variable-hours workers: Workers whose weekly hours, for which they are paid a fixed hourly rate, vary in some way

We have used reported usual weekly hours (excluding overtime) in main job as a proxy to estimate the distribution of variable-hours workers by weekly contractual hours as the Labour Force Survey does not record contractual hours other than for the zero-hours contract workers. This may overstate actual contracted hours for some respondents. We have adjusted usual weekly hours for those on zero-hours contracts to zero, as contractual hours are explicitly reported for this group.

A small amount of the variable workers estimate (around 31,000 workers) were still missing proxy contracted hours data after this stage, and a significantly smaller amount of the variable-hours worker estimate were missing data for some individual characteristics. We have scaled valid data up to our full variable workers estimate based on known data proportions, where relevant (i.e. assuming no systematic difference between those who did and not report their usual weekly hours or certain individual characteristics). Observations with missing data did not exceed 1.5 per cent of our full variable workers estimate in any of our analyses, unless otherwise specified.