

Impact Assessment, The Home Office

Title: Minimum Service Levels (MSL) Border Security Secondary Legislation

Date: 20 October 2023

IA No: 0442 **RPC Reference No:** N/A

Stage: Final

Other departments or agencies: Department for Business and Trade, Department for Health and Social Care, Department for Transport.

Intervention: Domestic

Measure: Secondary legislation

Enquiries:

BorderSecurityMSLConsultation@homeoffice.gov.uk

RPC Opinion: Not Applicable

Business Impact Target: Non-qualifying regulatory provision

Cost of Preferred (or more likely) Option (in 2023/24 prices)

Net Present Social Value NPSV (£m)

N/A*

Business Net Present Value BNPV (£m)

N/A*

Net cost to business per year EANDCB (£m)

N/A*

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

Strike action undertaken by those working in border security can negatively impact the safety and security of the UK border. 'Border security' could be defined to include activity undertaken by a range of different agencies but for the purposes of this impact assessment (IA), it is activity undertaken by Border Force. Without a permanent skilled presence at the border, there is a significant risk to the security of the UK. Government intervention is needed in the sector to establish a fair balance between the ability to strike and the need to ensure the borders are safe and secure in the event of a strike. By mandating that a minimum level of service is required on strike days, Border Force can maintain its complex operation and keep the country safe.

What is the strategic objective? What are the main policy objectives and intended effects?

Strategic Objective: To maintain border security in the event of a strike.

Policy Objectives: To use powers in the Strikes (Minimum Service Levels) Act 2023 to set a minimum service level (MSL) to protect border security in the event of a strike by employees of Border Force, whilst deploying these powers in a way which recognises the ability of those employees to strike.

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

Option 1: 'Do nothing'. Take no action and make no legislative changes.

Option 2: Deliver a statutory border security MSL. **This is the government's preferred option as it meets the strategic and policy objectives**

- Scenario **A**: 60 per cent of rostered staffing levels are required to work on strike days
- Scenario **B**: 70 per cent of rostered staffing levels are required to work on strike days
- Scenario **C**: 80 per cent of rostered staffing levels are required to work on strike days

Main assumptions/sensitivities and economic/analytical risks

Discount rate (%)

3.5%

A key uncertainty for the purposes of assessing costs and benefits is that details around the specific level of service that would be required under an MSL in various scenarios have not been finalised. The scale of some policy impacts will depend on the extent to which service levels are increased by the legislation compared with Option 1; it has therefore been necessary to test several scenarios in the IA to assess a range of feasible impacts.

Will the policy be reviewed? It will not be formally reviewed. **If applicable, set review date:** N/A

I have read the Impact Assessment, and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits, and impact of the leading options.

Signed by the responsible Minister

Robert Jenrick

Date:

04/11/23

*At this stage, a specific minimum level of service has not been established. This IA, therefore, provides an appraisal of a range of scenarios (A-C) across Option 2 in the summaries below. The appraisal demonstrates that a positive NPSV is achieved in each scenario tested.

Summary: Analysis & Evidence

Policy Option 2 – Scenario A

Description: Deliver a statutory border security MSL - 60 per cent of rostered staffing levels are required to work on strike days.

FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2023/24	PV Base	2023/24	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	10.2	High:	135.9	Best:	40.6	Best BNPV	-0.4	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.3	6.8	7.1	0.8	0.1
High	1.4	40.2	41.6	4.8	0.8
Best Estimate	0.7	16.7	17.4	2.0	0.4

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

Trade unions and Border Force staff will incur one-off familiarisation costs (£0.3m to £1.4m, central estimate £0.7m) as well as ongoing costs associated with the MSL annual planning cycle and the process for issuing work notices (£1.9m to £9.8m over 10 years, central estimate £4.9m). There are also costs to government of paying Border Force staff who would otherwise have been striking (£4.9m to £30.4m over 10 years, central estimate £11.8m).

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

Several potential costs have not been monetised, including enforcement costs, costs to trade union members, and costs resulting from changes to the nature of strike action taken by unions.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.0	17.3	17.3	2.0	0.0
High	0.0	177.5	177.5	20.6	0.0
Best Estimate	0.0	58.0	58.0	6.7	0.0

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

The key monetised benefits of this policy arise from an increase in hours of Border Force work completed (between £4.8m and £10.3m over 10 years) and savings from not requiring contingency staff on strike days (£7.6m to £167.6m over 10 years, central estimate £45.3m).

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

An MSL will likely result in greater operational certainty to Border Force and may lead to a positive impact on economic output through improving service levels at the border during strike action which could have knock-on impacts on trade and tourism.

BUSINESS ASSESSMENT (Option 2 – Scenario A)

Direct impact on business (Equivalent Annual) £m:									
Cost, £m	0.04	Benefit, £m	0	Net, £m	-0.04				
Score for Business Impact Target (qualifying provisions only) £m:					N/A				
Is this measure likely to impact on trade and investment?					Y				
Are any of these organisations in scope?		Micro	Y	Small	Y	Medium	Y	Large	Y
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	N/A	Non-Traded:	N/A		

PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2a)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	Y
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Summary: Analysis & Evidence

Policy Option 2 – Scenario B

Description: Deliver a statutory border security MSL - 70 per cent of rostered staffing levels are required to work on strike days.

FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2023/24	PV Base	2023/24	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	11.3	High:	143.2	Best:	43.4	Best BNPV	-0.4	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.3	7.7	8.0	0.9	0.1
High	1.4	45.7	47.1	5.4	0.8
Best Estimate	0.7	18.9	19.6	2.3	0.4

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

Trade unions and Border Force staff will incur one-off familiarisation costs (£0.3m to £1.4m, central estimate £0.7m) as well as ongoing costs associated with the MSL annual planning cycle and the process for issuing work notices (£2.0m to £10.3m over 10 years, central estimate £5.1m). There are also costs to government of paying Border Force staff who would otherwise have been striking (£5.7m to £35.5m over 10 years, central estimate £13.8m).

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

Several potential costs have not been monetised, including enforcement costs, costs to trade union members, and costs resulting from changes to the nature of strike action taken by unions.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.0	19.4	19.4	2.3	0.0
High	0.0	190.3	190.3	22.1	0.0
Best Estimate	0.0	62.9	62.9	7.3	0.0

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

The key monetised benefits of this policy arise from an increase in hours of Border Force work completed (between £11.1m and £17.6m over 10 years) and savings from not requiring contingency staff on strike days (£7.6m to £167.6m over 10 years, central estimate £45.3m).

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

An MSL will likely result in greater operational certainty to Border Force and may lead to a positive impact on economic output through improving service levels at the border during strike action which could have knock-on impacts on trade and tourism.

BUSINESS ASSESSMENT (Option 2 – Scenario B)

Direct impact on business (Equivalent Annual) £m:									
Cost, £m	0.04	Benefit, £m	0	Net, £m	-0.04				
Score for Business Impact Target (qualifying provisions only) £m:					N/A				
Is this measure likely to impact on trade and investment?					Y				
Are any of these organisations in scope?		Micro	Y	Small	Y	Medium	Y	Large	Y
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	N/A	Non-Traded:	N/A		

PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2a)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	Y
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Summary: Analysis & Evidence

Policy Option 2 - Scenario C

Description: Deliver a statutory border security MSL - 80 per cent of rostered staffing levels are required to work on strike days.

FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2023/24	PV Base	2023/24	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	12.5	High:	150.5	Best:	46.1	Best BNPV	-0.4	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.3	8.6	8.9	1.0	0.1
High	1.4	51.2	52.6	6.1	0.8
Best Estimate	0.7	21.1	21.8	2.5	0.4

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

Trade unions and Border Force staff will incur one-off familiarisation costs (£0.3m to £1.4m, central estimate £0.7m) as well as ongoing costs associated with the MSL annual planning cycle and the process for issuing work notices (£2.1m to £10.7m over 10 years, central estimate £5.3m). There are also costs to government of paying Border Force staff who would otherwise have been striking (£6.5m to £40.5m over 10 years, central estimate £19.5m).

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

Several potential costs have not been monetised, including enforcement costs, costs to trade union members, and costs resulting from changes to the nature of strike action taken by unions.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.0	21.4	21.4	2.5	0.0
High	0.0	203.1	203.1	23.6	0.0
Best Estimate	0.0	67.9	67.9	7.9	0.0

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

The key monetised benefits of this policy arise from an increase in hours of Border Force work completed (between £13.1m and £30.4m over 10 years) and savings from not requiring contingency staff on strike days (£7.6m to £167.6m over 10 years, central estimate £45.3m).

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

An MSL will likely result in greater operational certainty to Border Force and may lead to a positive impact on economic output through improving service levels at the border during strike action which could have knock-on impacts on trade and tourism.

BUSINESS ASSESSMENT (Option 2 – Scenario C)

Direct impact on business (Equivalent Annual) £m:									
Cost, £m	0.04	Benefit, £m	0	Net, £m	-0.04				
Score for Business Impact Target (qualifying provisions only) £m:					N/A				
Is this measure likely to impact on trade and investment?					Y				
Are any of these organisations in scope?		Micro	Y	Small	Y	Medium	Y	Large	Y
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	N/A	Non-Traded:	N/A		

PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2a)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	Y
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Evidence Base

A. Strategic objective and overview

A.1 Strategic objective

1. Strategic objective: to maintain border security in the event of a strike.

A.2 Background

Legislative background

2. Strike action undertaken by those working in border security can negatively impact the safety and security of the borders. ‘Border security’ could be defined to include activity undertaken by a range of different agencies but for the purposes of this IA, it is activity undertaken by Border Force. Border Force operates 24 hours a day, 365 days a year to secure the UK Border and promote national prosperity.
3. The Strikes (Minimum Service Levels) Act 2023¹ (MSL 2023) was introduced to Parliament on 10 January 2023, and received Royal Assent on 20 July 2023. It creates a framework for delivering minimum service levels (MSL) in the event of strike action in important sectors. These include border security. MSL 2023 creates a number of powers and processes to support the delivery of MSLs:
 - a. First, it creates a power for the Secretary of State to make secondary legislation setting out what ‘relevant services’ are in scope for ‘border security’ for the purposes of MSLs.
 - b. Second, it creates a further power for the Secretary of State to make secondary legislation setting out what the MSL should be in respect of those relevant border security services. The Home Office envisages that for relevant border security services, the Secretary of State for these purposes would be the Home Secretary.
 - c. Third, MSL 2023 provides that in the event of strike action, an employer would be able to issue a ‘work notice’ to a trade union, identifying the members of staff required to work on a strike day, and the work they are required to do, to meet the MSL. Such work notices must not identify more persons than are reasonably necessary for the purpose of providing the levels of service under the MSL regulations.
 - d. Fourth, a union would have to take ‘reasonable steps’ to ensure all members of that union who are identified within the work notice comply with the notice. A union which failed to take such reasonable steps would lose their protection from tort liability, which means employers could take court action against them. This could lead to a union being required to pay damages or the court could issue an injunction to prevent the strike from taking place. A person identified in a work notice who participated in a strike would lose their automatic protection from unfair dismissal for industrial action – in the same way as individuals who participate in sudden, unofficial and unsanctioned strikes² do today.

Border Force background

4. Border Force is a law enforcement command within the Home Office. It secures the UK border by carrying out immigration and customs controls for people and goods entering the UK in over 140 ports and airports across the UK and overseas. In addition, and in accordance with the UK’s national and international obligations, it identifies and protects potential victims of Modern Slavery and Human Trafficking and other vulnerabilities at the border. Border Force works in partnership with key organisations, including Immigration Enforcement, UK Visas and Immigration, His Majesty’s Revenue and Customs (HMRC), the police, the National Crime Agency, the Armed Forces and

¹ The Strikes (Minimum Service Levels) Act 2023: <https://bills.parliament.uk/bills/3396>

² Known as ‘wildcat’ strikes.

private contractors, to deliver a wide range of border activity necessary to ensure the UK has a strong, effective border.

Industrial action background

5. Border Force staff can become members of four unions recognised by the Home Office for collective bargaining purposes: the Public and Commercial Services Union (PCS), the Immigration Service Union (ISU), the First Division Association (FDA) and Prospect. The largest of these unions is PCS, which represents members throughout the Civil Service. PCS and ISU are the unions which primarily represent operational Border Force staff. In November 2022, Home Office staff including Border Force voted for a six-month mandate for strike action, as part of a PCS union ballot in a Civil Service-wide dispute regarding pay, pensions, redundancy terms and job security.
6. Since that PCS ballot, the union has called on their members in Border Force to take strike action during December 2022 and then again in February, March and April 2023. National Border Force strikes were held by PCS on 1 February, 15 March and 28 April. Local strikes were held by PCS at six airports (including Heathrow and Gatwick) plus Newhaven port on six days in December 2022. Strike action was also held by PCS at locations on the Short Straits between the UK and Continental Europe on three days in February 2023.
7. During this recent strike action, the Home Office has been able to manage threats to border security, and to ensure that passengers are not unduly inconvenienced, because cover has been provided to support Border Force by personnel from other parts of the Civil Service and members of the armed forces. However, in setting a border security MSL, the Home Office cannot rely on that cover being available in the future. In May 2023, Home Office staff, including Border Force, voted for a further six-month mandate for strike action. This is part of a second PCS union ballot in the ongoing Civil Service-wide dispute.

International comparison

8. The International Labour Organisation, which is an agency of the United Nations, has stated that minimum service levels are justifiable for the following services:
 - a. Services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term).
 - b. Services which are not essential in the strict sense of the term but where the extent and duration of a strike might be such as to result in an acute national crisis endangering the normal living conditions of the population, and in public services of fundamental importance.
9. Restrictions on the right to strike are indeed common across Europe. Outright bans on striking are usually in place where border security is provided by the police or by members of the armed forces. The exact picture is complex and differs from country to country. MSLs exist in a range of countries within the EU, and globally, as a legitimate mechanism to balance the ability to strike with the needs of the public. These are generally negotiated between employers and unions and can also cover issues like the notice period that has to be given before industrial action takes place.

A.3 Groups affected

10. The proposed legislation would affect the following groups:
 - a. **Border Force:** in particular, employees engaged in providing border security services.
 - b. **Passengers:** in particular those seeking to travel on the day of any strike action.
 - c. **Businesses:** in particular, those concerned in passenger travel or the importation or exportation of goods.
 - d. **Trade unions:** in particular, those representing employees engaged in providing border security services.

A.4 Consultation

11. 11. This IA follows a public consultation. The consultation ran from 11 August to 21 September 2023, and the findings from the consultation inform the policy Option 2 set out in this IA. The online consultation attracted 69 responses from a range of respondents, including employees of Border Force, industry partners and members of the public. A further nine written responses were received from organisations such as trade unions, port operators and airlines. A series of engagement events was also run with interested parties. The results were as follows:

a. Defining essential border security services

The majority of respondents thought that the following services should be included in the border security MSL: the examination of persons arriving in or leaving the UK; the examination of goods imported to or exported from the UK; the examination of goods entered for exportation or brought to any place in the UK for exportation; and the patrol of the sea and other waters within the seaward limits of the territorial sea adjacent to the UK. The majority also agreed that the following service should be included: the patrol of the UK's physical borders.

However, the majority disagreed that the following services should be included: the collection and dissemination of intelligence; the direction and control of those engaged in providing these services; and the enforcement of health-related protocols, including protocols designed to inhibit the transmission of disease, such as passenger locator forms.

The Government agrees with the majority of respondents regarding the services which should be included. However, the Government considers that the enforcement of health-related protocols should be included, as this would be a critical border function in the event of a health emergency. The Government also considers that the following should be included, in order to maintain proper border security: intelligence services; and control and direction services. Finally, following further consideration of the issues, the Government considers that the following should be included: such passport services as may be necessary for national security reasons on a strike day.

b. Organisations in scope for border security MSLs

The majority of respondents thought that only Border Force should be included in the border security MSL. Of those who suggested additional organisations, the responses were varied, from HM Revenue and Customs, the Department for Environment, Food and Rural Affairs to the Animal Plant Health Agency.

The Government agrees that the border security MSL should apply to Border Force. As the Government thinks it is important to include passport services for national security reasons, the MSL will also include HM Passport Office. The Government does not think any other organisations should be in scope.

The territorial extent of the 2023 act is England, Wales and Scotland, and so the territorial extent of the new regulations will also be England, Wales and Scotland. This means that the policy will not apply in Northern Ireland.

c. Reliance upon cover from outside Border Force

The majority of respondents agreed that on a strike day, Border Force should be able to deliver border security services without relying on cover from other parts of the Civil Service or the armed forces. Following consideration, the Government has decided to implement this proposal.

d. Provision of essential services ('business as usual', slow or stop)

The majority of respondents considered that all activities should be suspended or slowed down on a strike day. Some suggested that general administrative activities and training could be stopped or scaled back. The Government has carefully considered all of the responses we received, but for security reasons, cannot comment further on this. The Government remains committed to ensuring that we are able to deliver effective border security services on a strike

day. So, for this reason, the regulations will set out that border security services should be provided at a level that means that they are no less effective than if a strike were not taking place.

e. Keeping all ports and airports open

The majority of respondents disagreed that every port and airport should remain open on a strike day, with some free text comments that keeping all ports and airports open would undermine the effectiveness of strike action. The Government acknowledges the ability of employees to strike, and employees will continue to have this ability. However, in order to strike the balance between respecting the right to strike and ensuring the security of the border, the Government considers that all ports and airports should remain open on a strike day.

f. Staffing level baseline and adjustments

The Government asked for views on how Border Force could determine staffing levels to provide border security services during strikes. Using personnel data taken during previous strike action, it was proposed to use 70-75% of rostered staffing as a baseline, but recommending flexibility depending on the location, timing, and duration of any strike.

The majority of respondents disagreed with this suggestion, with some free text comments indicating that disagreement was less about these factors in themselves, and more about the policy in general.

Following consideration, we have decided that in the event of a strike, it should be open to the Home Office to consider these and any other relevant factors when making staffing decisions to deliver the required minimum level of service.

B. Rationale for intervention

12. Strike action in public services can lead to adverse impacts for users of these services, as well as generating wider social, economic, and environmental impacts on the UK and its economy. Whilst a substantial number of economic agents bear the impact of strike action, they are neither party to any dispute or have any avenue to have their interests formally represented. The impact of strike action on these parties therefore represents a negative externality which is not reflected in the interests of employers and trade unions.
13. In the border security sector, without a permanent skilled presence at the border, there is a significant risk to the security of the UK. Government intervention is needed in the sector to establish a fair balance between the ability to strike and the need to ensure the UK borders are safe and secure in the event of such a strike. By mandating that a certain level of service is required on strike days, complex operations are maintained which are required to keep the country safe.
14. MSLs need to, in the first instance, be able to mitigate against risks to border security by specifying that the level of service would be no less effective than they would be if the strike were not taking place on that date. This would also have benefits to the public and to businesses, whether that be through reduced disruption at the borders, increased public safety, reduced public costs, or reduced adverse impacts on the movement of goods and/or people.

C. Policy objective

15. To use powers in the Strikes (Minimum Service Levels) Act 2023 to set a MSL to protect border security in the event of a strike by employees of Border Force. To use these powers in a way which recognises the ability of those employees to strike.

D. Options considered and implementation

Option 1: ‘Do nothing’. Take no action and make no legislative changes.

16. Under Option 1, the Home Office would seek to continue to manage strikes as it has managed recent episodes of industrial action impacting on Border Force. This is not tenable in the medium to long term. This is principally because Border Force cannot continue to rely on contingency resourcing being provided by civil servants and from members of the armed forces. This model is not viable.

Option 2: Set statutory border security MSLs so that the level of border security services provided on a strike day are no less effective than they would have been if the strike were not taking place.

17. Statutory MSLs could be constructed to mean that border security services are provided solely by Border Force, without the need for cover from other civil servants or from the armed forces. In practice this is likely to mean that a number of staff, equivalent to a particular percentage of rostered Border Force staffing levels at the location of the strike, are required to work on a strike day.

18. For appraisal purposes Option 2 is split into 3 MSL scenarios to demonstrate indicative costs and benefits:

- Scenario A: 60 per cent of rostered staffing levels are required to work on strike days.
- Scenario B: 70 per cent of rostered staffing levels are required to work on strike days.
- Scenario C: 80 per cent of rostered staffing levels are required to work on strike days.

Preferred option and implementation date

19. **Option 2 is the government’s preferred option as it meets the strategic and policy objectives.** The Home Office is working on the assumption that the statutory instrument containing the MSL would be laid before Parliament in November 2023.

E. Appraisal

20. The following sections present analysis of the costs and benefits of the preferred option in comparison to the ‘do-nothing’ option.

General assumptions and data

21. The best available data has been used for this IA. Costings for the appraisal section are based on data primarily from the Home Office, the Department for Business and Trade (DBT), and the Office for National Statistics (ONS).

22. The appraisal period for measuring the impact of the MSL proposals is ten years in line with HM Treasury Green Book (2022) guidance³. A social discount rate of 3.5 per cent is used to discount future values to present values. All costs and benefits are in 2023/24 price base year (PBY), with a 2023/24 present value base year (PVBY). Transition/set-up costs are assumed to occur in year one only, and ongoing costs and benefits are expected to occur from year one of the policy onwards.

23. The main assumptions used in this IA are listed in Table 1 below:

Table 1: Assumptions

ID	Assumption Description
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³ The Green Book (2022): <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020>

1.1	<p>It is assumed that all Border Force staff are in the in-scope workforce for the policy, with the exception of agency, overseas, seasonal, and loaned staff. This means that they have the potential to receive work notices and be impacted by a minimum service level. This is because frontline roles rely on support from back office or HQ roles, such as targeting teams or operational planners, to function effectively and provide border security services in the United Kingdom.</p> <p>It is assumed that the total staff numbers for Border Force remain constant over the 10-year appraisal period. Total in-scope staff numbers across England, Scotland and Wales are presented in Table 2 and are assumed to be 10,372 (FTE) and 10,917 (Headcount).</p> <p>In addition to Border Force, a small number of HM Passport Office staff, deemed essential to providing border security services, are within scope of the policy. Given that this is likely to represent a very small number of staff it was not deemed proportional to expand the analysis to incorporate these impacts.</p>
1.2	<p>A full-time Border Force staff member will be scheduled to work approximately 42 hours per week, on average, across a rostered period. This means that each member of full-time Border Force staff will work on average 25 per cent of the time over an average week.⁴ It is therefore assumed that at any point 2,593 FTEs (25 per cent of the Border Force Full Time Equivalent (FTE) workforce) are assumed to be on shift and in-scope of the policy.</p>
1.3	<p>The staff numbers and associated labour costs used in the appraisal are shown in Table 2 below. Staff are split into three categories: Senior Civil Servant (SCS), Senior Border Force staff (Grade 6/7), Non-senior Border Force staff (below Grade 7). The employment costs for senior and non-senior Border Force staff have been taken from internal Border Force HR data and includes pay and other non-pay staff expenditure such as pensions and national insurance. Border Force SCS Staff costs have been sourced from Home Office Central Economics Unit data.</p> <p>The weighted average hourly labour cost of Border Force staff (the in-scope labour force, across Great Britain) is calculated to be £26.44. The sources for the workforce numbers used to calculate this weighted average are presented in Table 2.</p>
1.4	<p>There are four trade unions for Border Force staff; these are PCS, ISU, FDA, and Prospect. It is assumed that one general secretary and four senior directors from each trade union will need to familiarise themselves with the legislation to understand the implications for the work of their trade unions. See Table 3 for the labour costs and total staff numbers across all four unions used to calculate familiarisation costs.</p> <p>Labour costs for union officials come from estimates from the Annual Survey of Hours and Earnings (ASHE), which suggests that the median hourly wage of a General Secretary or a senior union official is £30.83⁵. This is then uprated to account for non-wage costs and to reflect 2023/24 prices to give a labour cost of £37.40⁶.</p>

⁴ $\frac{42 \text{ hours worked}}{168 \text{ hours in a week}} = 25\%$

⁵ ASHE (2022) Table 14.6a Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2022: <https://www.ons.gov.uk/file?uri=/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitoc2010ashtable14/2022provisional/ashtable142022provisional.zip>

⁶ Methodology as in DBT MSL IA – <https://www.gov.uk/government/publications/strikes-minimum-services-levels-bill-2023>. Wages as recorded in ASHE (2022) Table 13.6a Hourly Pay – Excluding Overtime (£) are uplifted by 17.9 per cent to account for non-wage labour costs for union officials. Overall labour costs are then adjusted according to the GDP deflator to reflect 2023/24 prices.

1.5	The ongoing costs and benefits of the policy are assumed to be spread evenly amongst each of the ten years of the appraisal period, because it is not possible to predict exactly when and what scale of strike action could occur.
1.6	<p>One single industrial action mandate period is estimated to equate to 131.1 hours of national strike action, across 3.5 occurrences. This means that, for every six-month period of strike action, there are 131.1 hours of national action in which a proportion of the in-scope workforce are on strike. This estimate is derived from analysis into strike action during the November 2022 – May 2023 PCS strike mandate⁷.</p> <p>In the low scenario, it is assumed that four periods of national strike action occur in the ten-year appraisal period. In the central scenario, it is assumed that seven periods of strike action occur. In the high scenario, it is assumed that ten periods of strike action occur⁸. Therefore, it is assumed that 52.4 hours per year of national strike action occur in the low estimate scenario, compared to 91.8 hours in the central estimate scenario, and 131.1 hours in the high estimate scenario⁹.</p>
1.7	<p>The turnout for strike action (the proportion of the FTE workforce in scope that would strike) is assumed to be 49 per cent, with a low estimate of 36 per cent and a high estimate of 89 per cent.</p> <p>These estimates are based on strike turnout figures from the PCS strike mandate period between December 2022 and May 2023. Internal analysis was undertaken of strike turnout across each Border Force region and period of strike action during the mandate period. To establish a true range of outcomes and demonstrate the uncertainty around future strikes, regional strike turnouts have been used. The low strike estimate uses the 10th percentile of regional strike turnout, and the high strike turnout uses the 90th percentile. It is assumed for the purpose of the modelling that turnout is uniform across all Border Force regions in Great Britain, with this assessed in paragraph 94.</p>
1.8	The usage of contingency staff in the do-nothing option is assumed to bring Border Force staffing levels to 70 per cent of the rostered workforce based on contingency provision in the December 2022 – May 2023 mandate period. However, it is assumed for modelling purposes that during strike events with very high turnout, contingency staffing would never exceed 50 per cent of the total rostered workforce on a strike day.
1.9	The legislation sets out the border security services that must be provided on a strike day, specifying that these must be no less effective than if a strike were not taking place. This will result in a percentage of rostered staffing levels being required during strike periods. During the December 2022 – May 2023 mandate period, total staffing levels of between 70 and 75 per cent of the rostered workforce were delivered by using contingency staff, however, further work would be needed to establish exact requirements in the event that a strike is called and the MSL is used. Depending on the circumstances, the figure could be higher or lower. The analysis tests possible staffing levels of 60 per cent, 70 per cent and 80 per cent of Border Force workforce. These are presented in Options 2, scenarios A, B and C respectively.

⁷ The analysis estimates the hours of national Border Force strike action per mandate period by considering the number of strike days observed over the 6-month PCS mandate period starting in November 2022. This period saw national strikes on the 1 February, 15 March and 28 April. There was also localised strike action on the 23-30 December as well as the 17-19 February and the 12-14 April. The estimate is calculated by adding together the 72 hours of national strikes and the 288 hours of localised strikes, weighted downwards according to the proportion of national Border Force staff located at the striking locations. This resulted in a total of 131.1 hours of national equivalent strike action. Applying the same method to occurrences results in a total of 3.5 occurrences of strike action on a nationally equivalent basis.

⁸ These assumptions have been generated through discussions with Border Force HR based on the perceived future likelihood of Border Force strike action.

⁹ $\frac{(131.1 \times 4)}{10} = 52.4$, $\frac{(131.1 \times 7)}{10} = 92.2$, $\frac{(131.1 \times 10)}{10} = 131.1$

2.0	<p>The benefit to society of a Border Force officer’s work is proxied here through the use of ONS data to calculate the output per worker per hour for those working in “public administration and defence; compulsory social security”, as determined by standard industry classification (SIC¹⁰) code 84. This approach is similar to that employed by Department for Business and Trade (DBT) in the Strikes (MSL) Bill IA.</p> <p>Analysis of ONS labour productivity data¹¹ generates an output per worker per hour figure of £49.06¹². This is calculated by taking the annual Gross Value Added (GVA) value associated with SIC 84 in the most recently available labour productivity data period (2022 Q2 – 2023 Q1).</p> <p>For the basis of this appraisal, the benefit of an hour of Border Force time is assumed to be consistent across all in-scope grades. The values are also assumed to remain constant across the appraisal period.</p>
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24. Data on Border Force staffing and labour costs is included in Table 2. Border Force staff are split into three categories (SCS, senior, and non-senior) for the assessment of costs and benefits.

Table 2: Border Force Staff by Grade and Median Hourly Labour Cost¹³ (£, 2023/24 prices)

Staff	Staff in Scope – FTE	Staff in Scope – Headcount	Weighted Average Hourly Labour Cost
SCS ¹⁴	35	35	91.3
Senior ¹⁵	433	442	53.0
Non-Senior ¹⁶	9,904	10,440	25.0
Total	10,372	10,917	26.4

Table 2 Source: Staff FTE and headcount figures taken from internal Border Force HR data and covers all staff working within all functions of Border Force. Median hourly labour cost for Border Force staff taken from internal Border Force HR data and includes base pay and other non-pay staff expenditure such as pensions and national insurance. Staff costs have been updated to incorporate the outcome of the July 2023 Home Office pay award. Border Force SCS Staff costs have been sourced from internal analysis. All Border Force staff are in scope of the Bill, but in practice the actual number of staff who are issued a work notice may differ.

25. ‘Headcount’ refers to each employee being counted individually. Headcount figures are used to calculate familiarisation costs as it is expected each employee will require some time to familiarise themselves with the policy, regardless of their working patterns. For the calculation of other costs and benefits, FTE staff figures are used. This standardises employees across different working patterns, allowing a more accurate understanding of the costs and benefits achieved through MSLs.

26. Assumptions on trade union staffing and labour costs are included in Table 3.

Table 3: Union Officials by Role and Median Hourly Labour Cost (£, 2022/23 prices)

Role	General Secretary	Senior Director
Headcount	4	16
Median Hourly Labour Cost	37.4	37.4

¹⁰ Standard industrial classification of economic activities (SIC) - GOV.UK:

<https://www.gov.uk/government/publications/standard-industrial-classification-of-economic-activities-sic>

¹¹ Output per hour worked, UK - ONS:

<https://www.ons.gov.uk/economy/economicoutputandproductivity/productivitymeasures/datasets/outputperhourworkeduk>

¹² This figure has been updated from 2022/23 to 2023/24 prices using a GDP deflator.

<https://www.ons.gov.uk/generator?format=csv&uri=/economy/grossdomesticproductgdp/timeseries/ybgb/qna>

¹³ Data excludes staff based in Northern Ireland, as well as non-payroll (agency, contractors), seasonal staff, overseas staff and those on loan. Data is as of July 2023.

¹⁴ Staff within Senior Civil Servant Pay Band 1, 2, and 3

¹⁵ Staff at Grade 6/7 (or Border Force equivalents)

¹⁶ Staff at AO/AA – SEO grades (or Border Force equivalents)

Table 3 Source: Adapted from DBT MSL IA. See assumption 1.10 for further details.

27. The distinction between the low, central, and high scenarios for calculation of the costs and benefits associated with the options presented in this IA are dependent upon two key modelled assumptions; the strike turnout, and the expected frequency of strike mandates during the 10-year appraisal period. These assumptions are listed in Table 4 with their sources contained in Table 1.

Table 4: Summary of Key Assumptions by Scenario – strike turnout, frequency, hours and net benefit per hour of strike action prevented

Scenario	Strike Turnout	Strike Mandate Frequency (Across 10-year Period)	Strike Hours per Mandate Period ¹⁷	National Strike Occurrences per Mandate Period ¹⁸
Low	36%	4	131.1	3.5
Central	49%	7	131.1	3.5
High	89%	10	131.1	3.5

Table 4 Source: Home Office assumptions and calculations

COSTS

Option 1: Take no action and make no legislative changes (do-nothing)

28. This is the do-nothing option so no costs have been monetised. For Option 1, no secondary legislation is laid so there is no impact of the proposals. This is the baseline that other options are measured against.
29. There are costs associated with Option 1 when considering it in isolation, because this option may result in a higher level of strike impact as well as costs from utilising contingency staffing. These costs are instead accounted for through reframing as benefits associated with Option 2, against the counterfactual, Option 1.

Option 2: Deliver statutory border security MSLs

Set-up costs for Option 2

30. There will be one-off set-up costs in year one of the appraisal period from trade unions and Border Force staff familiarising themselves with the policy.

Familiarisation – trade unions

31. It is expected that trade unions will have to familiarise themselves with the legislation and relevant guidance produced in support of the policy. It is assumed that this will take between one day (8 hours) and four days (32 hours), with a best estimate of two days (16 hours). This is based on the trade union familiarisation estimates provided in the DBT MSL Bill IA¹⁹ and the Border Security Consultation IA²⁰ plus an extra 8 hours (low estimate 4 hours, high estimate 16 hours) for officials to familiarise themselves with the work notice content in the legislation. It is assumed that five union officials from each of the four relevant unions (assumption 1.4) will need to familiarise themselves with any regulations. Given that the hourly labour cost of union officials is £37.40 (Table 3), The cost is estimated to be between £0.006 million and £0.02 million, with a central estimate of £0.01 million.

¹⁷ Estimated on a nationally equivalent basis.

¹⁸ Estimated on a nationally equivalent basis.

¹⁹ Sourced from DBT MSL IA - <https://www.gov.uk/government/publications/strikes-minimum-services-levels-bill-2023>

²⁰ Minimum Service Levels (MSL) Border Security Consultation: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1178248/Signed_MSL_Border_Security_Impact_Assessment.pdf

Familiarisation – Border Force staff

32. It is expected that all staff in Border Force will need to familiarise themselves with relevant regulations and guidance produced to support the policy. It is assumed that all non-senior Border Force staff will take between 30 minutes and 2 hours, with a central estimate of 1 hour, to familiarise themselves with the guidance. The familiarisation cost is calculated by multiplying familiarisation time by the labour cost of each non-senior Border Force staff member (Table 2). This gives an estimate of the familiarisation cost of between £0.1 million and £0.5 million, with a central estimate of £0.2 million.

Familiarisation – Border Force senior leadership teams

33. It is expected that SCS and senior Border Force staff will have to do the same level of familiarisation as trade union officials (see paragraph 30), so in a range of 8 to 32 hours with a central estimate of 16 hours. This is because there are similar responsibilities placed on employers and unions by this policy. It is also assumed that SCS and senior Border Force staff may need to provide support to their teams with answering queries related to policy familiarisation. This gives an estimate of the familiarisation cost of between £0.2 million and £0.8 million, with a central estimate of £0.4 million.

Legal Costs – trade unions

34. It is expected that trade unions will require and seek legal advice on the legislative change, including advice on their obligations regarding reasonable steps and updating of their privacy notices to reflect the data needed to issue work notices. It is assumed that each of the four in-scope trade unions will require between 4 and 16 hours of legal advice, with a central estimate of 8 hours. It is estimated that one hour of legal advice would cost £311²¹. This gives an estimate of the total legal advice cost to unions of between £0.005 million and £0.02 million, with a central estimate of £0.01 million.

Total set-up costs for Option 2

Table 5: Present Value Total set-up costs Option 2, (£ million, 2023/24 prices)

Cost area	Low	Central	High
Familiarisation – trade unions	0.006	0.01	0.02
Familiarisation – Border Force staff	0.1	0.2	0.5
Familiarisation – Border Force senior leadership	0.2	0.4	0.8
Legal costs – trade unions	0.005	0.01	0.02
Total	0.3	0.7	1.4

Table 5 Source: Home Office calculations

35. Total set-up costs are presented in Table 5. The costs are estimated to be between £0.3 million and £1.3 million, with a central estimate of £0.6 million.

Ongoing Costs for Option 2

36. There will be ongoing cost associated with Option 2 in each year of the appraisal period. These costs are associated with planning how MSLs would be used in a given year, as well as costs resulting from the issuing of work notices and ongoing familiarisation costs resulting from the policy. The ongoing costs are expected to be:

²¹ The Trade Union Act 2016 Enactment Impact Assessment: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/583579/trade_union_act_enactment_IA_BEIS_clean.pdf estimates an hourly cost of legal advice to trade unions as costing £250. This is then updated to 2023/24 prices using the ONS GDP deflator to give an hourly cost of £311 (<https://www.ons.gov.uk/generator?format=csv&uri=/economy/grossdomesticproductgdp/timeseries/ybgb/qna>).

- a. MSL annual planning costs.
- b. Costs associated with the issuing of work notices:
 - 1) Identifying employees who need to attend work.
 - 2) Consultation on the work notice between trade unions and Border Force – Border Force costs.
 - 3) Consultation on the work notice between trade unions and Border Force – trade union costs.
 - 4) Unions informing Border Force staff on work notice of their requirement to work on strike days.
 - 5) Border Force managers informing staff of their requirement to work on strike days.
 - 6) Employees acknowledging and understanding their requirement to work.
- c. Picket supervisor familiarisation costs.
- d. Cost to HM Government of paying Border Force staff who would otherwise have been striking.

a) MSL annual planning costs

37. Border Force operational planning teams will need to spend time each year planning how MSLs will be used in the event of strike action being called. The planning team is expected to require the resource of SCS (2), senior Border Force staff (10), and non-senior Border Force staff (10) with a total FTE of 22 workers. It is estimated that this will require between 96 and 192 hours of work annually, with a central estimate of 144 hours. The work would involve an in-depth annual review, as well as a series of quarterly refreshes of implementation plans to ensure that Border Force are prepared for the announcement of strike action. The cost is calculated²² by multiplying the annual time requirements by the labour cost of each required staff member (as presented in Table 2). This gives a total annual cost of £0.14 million, low estimate £0.09 million and high estimate £0.19 million.

b) Costs associated with the issuing of work notices

38. In Option 2, Border Force and trade unions will issue Border Force staff with work notices to ensure that a minimum level of service is provided during strike periods. Therefore, whenever there is a strike incident, there will be time costs associated with identifying those employees who need to be issued with a work notice, as well as consulting on and issuing the work notices. Note that many of these costs are assumed to be incurred irrespective of the magnitude of the MSL which is set.

b 1) Identifying employees who need to attend work

39. Once strike action is called, Border Force will have to spend time determining which employees should be identified on a work notice so that the MSL can be met during the strike period. As much of this work will already have been done during the annual planning cycle, see paragraph 39, the additional time cost associated with this is expected to be relatively minimal. It is assumed that it will take operational planners - assumed to be the same staff numbers and grade breakdown as in (a) – alongside a further 10 local planners (non-senior staff) between 8 hours and 16 hours per strike occurrence, central estimate of 12 hours, to identify required employees. This gives a total annual cost²³ of £0.04 million, a low estimate of £0.01 million and high estimate of £0.1 million.

²² The full calculation for the central scenario here will be as follows: For SCS 2 FTE are required, their average hourly labour cost is £91.30, they are required for 144 hours; their labour cost will therefore be $2 \times 144 \times £91.30 = £26,294$. For senior Border Force staff 10 FTE are required, their average hourly labour cost is £53.04, they are required for 144 hours; their labour cost will therefore be $10 \times 144 \times £53.04 = £76,378$. Finally, for non-senior Border Force staff 10 FTE are required, their average hourly labour cost is £25.05, they are required for 144 hours; their labour cost will therefore be $10 \times 144 \times £25.05 = £36,072$. Total annual cost in the central scenario will therefore be £138,744 which rounds to £0.14 million per year.

²³ The method here is the same as for (a) aside from these costs occur for each strike occurrence rather than each year. There are expected to be 3.5 strike occurrences per mandate period and 0.4 (low), 0.7 (central), 1 (high) mandate periods per year

b 2) Consultation on the work notice between trade unions and Border Force – Border Force costs

40. It is expected that, once Border Force planning teams have identified the staff that will be named on work notices, they will inform trade union leaders and consult with them on the measures they have put in place to meet the MSL. It is expected that the consultation process will incur time costs of between 8 hours and 24 hours, central estimate 16 hours, for each occurrence of strike action. This consultation process is expected to be led by senior Border Force leaders with those involved expected to be a team of four SCS and four senior Border Force staff. Using the same methodology as in b 1), this gives a total annual cost of £0.02 million, a low estimate of £0.01 million and a high estimate of £0.05 million.

b 3) Consultation on the work notice between trade unions and Border Force – trade union costs

41. The five union officials for each of the four in-scope trade unions are assumed to spend the same time on work notice consultations as Border Force senior leaders. Therefore, the annual time assumptions in paragraph 44 are multiplied by the trade union officials' labour costs (see Table 3) and the number of officials to estimate the annual cost to unions of consultations. This gives a total annual cost of £0.03 million, a low estimate of £0.01 million and a high estimate of £0.06 million.

b 4) Unions informing staff on work notice of their requirement to work on strike days

42. Once Border Force have consulted with trade unions on the work notice, it is expected that unions will then process the work notice and inform those of their members that are identified on the work notice of their requirement to work during the upcoming strike period.

43. While some of this process may be automated using unions' online member databases, there is likely to be time spent by union officials checking that the names on the work notice are matched correctly to those on their membership database, and to send out emails to those identified on the work notice. It is estimated that, for each incident of strike action, each of the four union officials per union will spend between two hours and six hours, central estimate four hours, informing their relevant members of their requirement to work on strike days. Applying this to assumptions on the number of strike incidents per year and trade union wage costs, this gives a total annual cost of £0.01 million, a low estimate of £0.002 million and a high estimate of £0.02 million.

b 5) Senior managers informing Border Force staff of their requirement to work on strike days

44. As well as unions informing relevant members of their requirement to work on strike days, it is also expected that senior Border Force managers will inform those workers identified on the work notice of their requirement to work.

45. It is assumed that it will take between 1 and 5 hours, with a central estimate of 2.5 hours, for a senior manager to inform those who are identified on the work notice of their requirement to work, and to answer any questions that they may have about the work notice. The time assumption accounts for a mixture of in-person and email correspondence with employees.

46. Given the wide scope of the policy, it is assumed that all Border Force senior managers (SCS and senior Border Force staff) will be required to deliver work notices. The total annual cost is estimated to be £0.2 million, with a low estimate of £0.04 million and a high estimate of £0.5 million.

b 6) Employees acknowledging and understanding their requirement to work

47. Employees who are identified on a work notice will take time to acknowledge and understand their requirement to work during a strike period. For each employee who is notified of their requirement to work, it is expected to take between 0.25 hours and 0.5 hours, central estimate of 0.4 hours, each time they are named. The number of employees named will depend upon the MSL percentage level implemented and thus, overall costs will differ between scenarios A, B and C in Option 2. Under a 60 per cent MSL (Option 2 – Scenario A) this annual cost is estimated to be between £0.05 million and £0.3 million with a central estimate of £0.2 million. Under a 70 per cent MSL (Option 2 – Scenario

(see Table 4). It is therefore anticipated that there will be an average of 1.4 strike occurrences per year in the low scenario, 2.45 occurrences per year in the central scenario, and 3.5 occurrences per year in the high scenario.

B) this annual cost is estimated to be between £0.1 million and £0.3 million, with a central estimate of £0.2 million. Finally, under an 80 per cent MSL (Option 2 – Scenario C) this annual cost is estimated to be between £0.1 million and £0.4 million, with a central estimate of £0.2 million.

c) Picket supervisor familiarisation cost

48. Within Option 2, when there is strike action taking place, picket supervisors will need to familiarise themselves with the parts of the legislation that apply to their role and their obligations in helping to encourage compliance with the legislation from those workers that are on strike.
49. It is assumed that this is an ongoing cost because, each time there is strike action taking place, it is assumed that there will be a new set of picket supervisors who will have to familiarise themselves with the guidance relating to their obligations on the picket line.
50. For each case of national strike action, there are assumed to be 96 picket supervisors²⁴, each of whom will spend one hour familiarising themselves with the legislation and guidance. It is assumed that the hourly labour costs of picket supervisors is £26.16²⁵. The annual cost is estimated by multiplying the number of picket supervisors per case of strike action by the hourly wage, the familiarisation time (one hour) and the expected number of cases of strike action per year (see assumption 1.6). This gives a total annual cost of between £0.005 million and £0.01 million, and a central estimate of £0.01 million.

d) Cost to HMG of paying Border Force staff who would otherwise have been striking

51. Under Option 2, where Border Force workers (who would have otherwise chosen to strike) are required to work during periods of strike action, this will incur a cost to government. The cost will be equal to the pay costs associated with an extra hour of employment of Border Force staff minus the taxation which would now be paid²⁶. The average hourly cost is calculated as being £19.47²⁷.
52. The magnitude of the total cost will depend upon the number of Border Force strike hours which are prevented by the policy, which in turn is dependent upon the percentage of staff that are required to work on a strike day because of the MSL, the strike turnout (in the do-nothing scenario) and the estimated frequency of strike action. Using the assumptions set out in Table 4, it is estimated that under an MSL resulting in 60 per cent of staff being named in a work notice (Option 2 – Scenario A) this annual cost will fall between £0.6 million and £3.5 million, with a central estimate of £1.4 million. Under the scenario where 70 per cent of staff are named (Option 2 – Scenario B) this annual cost will be between £0.7 million and £4.1 million, with a central estimate of £1.7 million. Finally, under the scenario where 80 per cent of staff are named (Option 2 – Scenario C) this annual cost will be between £0.8 million and £4.7 million, with a central estimate of £1.8 million. The wider methodology for the calculation of these costs is similar to the calculation of some ongoing benefits as set out within the benefits section of this IA.
53. In addition to this payment incurring a cost to government, there will be an equivalent benefit to workers in terms of additional pay received for each hour where a worker is prevented from striking. However, this benefit is not included within the IA because the benefit accrued by workers for receiving pay, which would otherwise have been withdrawn in the event of strike action, is expected to be lower than the disutility that they will incur from not being able to strike. By previously choosing strike action above pay they have demonstrated a revealed preference for strike action, implying that they value it more and are therefore not receiving additional benefit under Option 2.

Total ongoing costs of Option 2

²⁴ There are assumed to be two picket supervisors covering each of the 48 permanent Border Force staffed points of entry per 24-hour period of strike action.

²⁵ ASHE (2022) Table 14.6a Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2022. Hourly wage for 'Professional occupations' is £22.19, this is updated by 17.9 per cent to account for non-wage labour costs to give £26.16.

²⁶ Taxation here in terms of income tax, employer NI, and employee NI is effectively a transfer payment which returns to HM Government and is therefore discounted from overall pay costs.

²⁷ This is equal to the estimated average take home pay of Border Force staff plus pension contributions.

54. Total ongoing costs, as covered above, are presented in Table 6.

Table 6: Total annual ongoing costs of Option 2, (£ million, 2023/24 prices)

		Low	Central	High
MSL annual planning costs		0.1	0.1	0.2
Issuing work notices	Scenario A	0.1	0.4	0.9
	Scenario B	0.1	0.4	1.0
	Scenario C	0.1	0.5	1.0
Picket supervisor familiarisation cost		0.01	0.01	0.01
Cost to HMG of paying Border Force staff who would otherwise have been striking	Scenario A	0.6	1.4	3.5
	Scenario B	0.7	1.6	4.1
	Scenario C	0.8	1.8	4.7
Total ongoing costs	Scenario A	0.8	1.9	4.7
	Scenario B	0.9	2.2	5.3
	Scenario C	1.0	2.4	5.9

Table 6 Source: Home Office calculations

Total costs

Table 7: Total Costs for Options 1 and 2, (£ million, 2023/24 prices)

Policy Option	Total Setup Costs	Total Annual Ongoing Costs	Total discounted Cost (10 years)
Option 1			
All	0.0	0.0	0.0
Option 2 – Scenario A (60% MSL)			
Low	0.3	0.8	7.1
Central	0.7	1.9	17.4
High	1.4	4.7	41.6
Option 2 – Scenario B (70% MSL)			
Low	0.3	0.9	8.0
Central	0.7	2.2	19.6
High	1.4	5.3	47.1
Option 2 – Scenario C (80% MSL)			
Low	0.3	1.0	8.9
Central	0.7	2.4	21.8
High	1.4	5.9	52.6

Table 7 Source: Home Office calculations

55. Total costs of each option, combining setup and ongoing costs, are presented in Table 7. For Option 2 – Scenario A (60% staffing level), the discounted (10-year) costs are estimated to be between £7.1 million and £41.6 million, with a central estimate of £17.4 million. For Option 2 – Scenario B (70% staffing level), the discounted (10-year) costs are estimated to be between £8.0 million and £47.1 million, with a central estimate of £19.6 million. Finally, for Option 2 – Scenario C (80% staffing level), the discounted (10-year) costs are estimated to be between £8.9 million and £52.6 million, with a central estimate of £21.8 million.

Non-monetised costs

56. There are a number of additional costs, that may apply to Option 2, which should be considered:

- **Updating of privacy policies:** The Home Office and trade unions will need to update their privacy policies to account for the data that needs collecting to issue work notices. The changing of these privacy policies will be associated with a time cost, however, this is expected to be low and so the costs associated with this are expected to be negligible.
- **Increased Data Protection costs:** The change in the data that unions collect to issue work notices could lead to increased subject access requests as union members seek to understand what personal data their union has about them. The time taken to process these requests would come at a cost to unions.
- **Enforcement related costs:** There may be costs to Border Force of enforcing work notices. These could include administration and litigation costs. There could also be linked costs to trade unions and employees. Employees which have been identified in a valid work notice, and have been notified of this by Border Force, but take strike action and do not attend work to fulfil the requirements of the work notice would lose their protection from automatic unfair dismissal for strike action. Border Force can manage instances of non-compliance with a work notice in the same way as they would for unauthorised absence. This could mean that the employee is disciplined as a result or potentially dismissed. It is the discretion of Border Force as to what, if any disciplinary action is taken in these circumstances. It is assumed that most workers will comply with a work notice, given that failure to do so may incur disciplinary action. However, should non-compliance be commonplace this would increase the costs of the policy.
- **Trade union membership:** It is possible that the government setting a MSL for Border Force could have an adverse impact on union membership by either raising the barrier to industrial action or increasing the strength of mitigating actions. It is also possible that some individuals may currently be reluctant to join a union due to concerns around impact of disproportionate industrial action on the public in the absence of statutory MSL. The proposed MSL models may, in theory, mean some individuals feel more empowered to join a union as this concern will no longer apply.
- **Changing nature of strike action:** There is the potential for an increase in strike action because of MSLs being introduced, due to an increase in tensions between unions and Border Force. However, given that strikes themselves are influenced by a range of factors it is not possible to predict this with any certainty.

According to unions, a further consequence of this policy could be an increase in staff taking action short of striking which is not prohibited by legislation. Where services are reliant on staff working additional hours beyond those that they are contracted to work, this could have a significant negative impact on the level of Border Force labour provided and therefore have a societal cost. It is important to note that such action could continue even when MSLs are in place, (so it could be that instead of taking strike action, action short of strike becomes a more prevalent form of lawful protest).

It is unclear what the net impact of a move from strike action to action short of a strike would be, but it is likely on balance, to be lower than strike action without any form of MSL. This is because the risk could potentially be mitigated through other means, such as changes to working practices and terms and conditions..

- **Reduced benefits of being in a union:** There are several benefits of being part of a union. One of these benefits is that unions help counterbalance the bargaining power that employers have over their staff. Strike action may in some cases lead to improved terms and conditions, including increased pay deals, which can have impacts on staff morale and motivation. If any of the proposed options were to change the balance between unions and employers, this may reduce the value that workers receive by being part of a union. If any of the options reduce the impacts of strikes, this could lead to potential reductions in future pay or working conditions for

Border Force staff compared with Option 1. This potential reduction in terms and conditions for workers in unionised sectors over time (if bargaining power is substantially weakened) could have a downward effect on terms and conditions more generally in the labour market.

However, there is no guarantee that strike action leads to more favourable terms and conditions for workers and the proposed option for MSLs provides some protection to the ability of workforces to strike. If, because of MSLs, fewer strikes were successful in achieving improved terms and conditions this would represent a cost to the worker. If MSLs are set at a level broadly similar to business continuity plans which would already have been in place, there could be more limited material difference to individuals.

BENEFITS

Set-up benefits (all options)

57. There are no set-up benefits associated with any of these options. All benefits are assumed to be ongoing.

Ongoing benefits

Option 1: Do nothing

58. As this represents the current situation, there are no ongoing benefits associated with this option.

Option 2: Deliver statutory border security MSLs

59. There will be ongoing benefits resulting from Option 2 across the 10-year appraisal period. These are expected from an increase in Border Force working hours during strike action, reductions in planning costs associated with existing strike preparation processes, and reductions in costs associated with the training and deployment of contingency resource during strike action. These ongoing benefits are:

- a. Cost savings from removing current critical incident planning for strike action:
 - 1) Cost savings from removing current critical incident planning for strike action – planning ahead of strike mandate periods.
 - 2) Cost savings from removing current critical incident planning for strike action – coordination and monitoring during strike mandate periods.
- b. Cost savings from not requiring contingency staff:
 - 1) Contingency staff cost savings – savings on training contingency staff.
 - 2) Contingency staff cost savings – savings on deploying contingency staff.
 - 3) Contingency staff cost savings – benefits associated with contingency staff working on their BAU jobs rather than being redeployed to cover border activities.
- c. Value of additional hours of Border Force work completed.

a) Cost savings from removing current critical incident planning for strike action

60. Under current practices (that is, those that would remain in the do-nothing scenario) Border Force planning teams undertake detailed work ahead of and during strike action to maintain a level of service. This involves implementing command and controls structures and preparing and monitoring the deployment of business continuity plans including the use of contingency resource. In Option 2, the MSL ensures a minimum service level can be provided during strike action periods without the use of contingency resourcing. Therefore, current processes will no longer be required and will be replaced with new MSL processes as referenced in paragraph 36.

a 1) Cost savings from removing current critical incident planning for strike action – planning ahead of strike mandate periods

61. It is assumed that approximately 55 Border Force staff are involved in critical incident planning for strike action in the do-nothing scenario. Planning is led by an SCS director, supported by Grade 6/7 leaders and their planning team members. This involves significant work and various meetings involving Border Force leaders. It is estimated that 2 SCS, 18 senior Border Force staff, and 30 non-senior Border Force staff will spend between 40 and 120 hours, central estimate 80 hours, undertaking critical incident planning ahead of a mandate period. Therefore, the cost per strike mandate period is calculated as in the MSL planning costs above (for example, paragraph 39) by multiplying Border Force FTE staff numbers by their relevant labour costs, the estimated time requirement, and the expected number of strike mandate periods per year (see Table 4). This gives an annual cost saving estimate of between £0.2 million and £0.8 million, central estimate £0.6 million.

a 2) Cost savings from removing current critical incident planning for strike action – coordination and monitoring during strike mandate periods

62. In the do-nothing scenario, it is assumed that Border Force planning teams continue to meet regularly during an industrial dispute to monitor and amend command and control structures as well as updating business continuity plans at the national and local level. It is assumed that this will involve the same number and seniority of staff as those involved in pre-mandate planning, with the addition of a further 5 SCS staff who will be involved in weekly co-ordination meetings. It is estimated that staff will spend between 2 and 6 hours per week, central estimate 4 hours, involved in critical incident planning throughout a six-month strike mandate period. This gives an annual cost saving estimate of between £0.05 million and £0.3 million, central estimate £0.2 million.

b) Cost savings from not requiring contingency staff

63. In the event of strike action in Option 1, Border Force are assumed to continue to manage strike action as in recent mandate periods, through drawing upon contingency staff in order to bolster business continuity plans and moderate the impact of strike action on key border services. For modelling purposes, Border Force operational planners are assumed to have good information on likely strike turnout during periods of industrial action, and therefore efficiently procure contingency resource.

64. Under Option 2 contingency resource will no longer be used, instead MSLs will be staffed entirely from Border Force personnel. There would therefore be benefits under Option 2 associated with no longer requiring the use of contingency staff to bolster business continuity plans. The benefits associated with not requiring contingency staff²⁸ will be dependent upon the number of staff that are required to meet the strike cover targeted resource (assumption 1.8).

65. The wage costs of contingency staff are not included in this analysis, this is because it is assumed that their wages will be paid irrespective of whether they are providing contingency cover (that is, in both Option 1 and Option 2). There will however be additional costs associated with training and deploying contingency staff under Option 1, as well as the opportunity cost of their business-as-usual work activities which would not be undertaken while providing contingency support.

b 1) Contingency staff cost savings – savings on training contingency staff

66. Personnel providing contingency cover to Border Force staff during strike action require significant training ahead of deployment to ensure understanding of the complex tasks that will be required.

67. Internal analysis suggests an expected training cost of £2,000 per contingency staff member, this includes allowances, accommodation, transport as well as other costs. It is assumed that once trained, contingency staff members can provide strike cover across a strike mandate period but would need further training for additional periods of strike action. It is also assumed that the number of contingency staff trained is based on an aim to provide coverage of up to 50 per cent of a full Border Force shift pattern. This assumption is based upon the nature of recent strike action whereby

²⁸ For example, in the central scenario with a strike turnout of 49 per cent and therefore 51 per cent of staff attending work as usual, it is assumed that contingency staff equating to 19 per cent of Border Force rostered staffing levels would be utilised to bring staffing up to 70 per cent.

national action has been limited to strikes of shorter length, so it is not deemed necessary to train enough staff to provide coverage across a full multi-week roster.

68. The total annual training cost for contingency staff under the do-nothing scenario is calculated by multiplying the average number of strike incidents per year by the number of staff estimated to be required per strike mandate period and the expected cost of providing contingency training²⁹. This gives a central estimate of Option 2 annual benefits of £1.4 million, a low estimate of £0.2 million and a high estimate of £5.2 million.

b 2) Contingency staff cost savings – savings on deploying contingency staff

69. Deploying contingency staff is expected to result in additional costs under business-as-usual practices beyond the direct wage costs of those deployed. Internal analysis suggests an anticipated deployment cost of £35, per staff member, per hour where they are required to provide contingency support. This is assumed to cover transport, accommodation, expenses, and other miscellaneous costs and applies for each hour that a contingency staff member provides strike cover.
70. The total annual deployment cost for contingency staff under the do-nothing scenario is calculated by multiplying the average number of strike incidents per year by the number of contingency working hours estimated to be required per strike mandate period and the expected hourly cost of providing contingency deployment³⁰. This gives a central estimate of Option 2 annual benefits of £1.6 million, a low estimate of £0.3 million and a high estimate of £5.9 million.

b 3) Contingency staff cost savings – benefits associated with contingency staff working on their business as usual jobs rather than being redeployed to cover border activities.

71. When contingency staff deputise for Border Force staff and undertake border activities during strike action this incurs an opportunity cost on society. This is because during the periods that contingency workers are providing strike cover, they are not able to complete the business-as-usual productive activity that they would have been doing otherwise. For example, military personnel providing border security cover are not able to provide defence services such as operations or training exercises.
72. Modelling the magnitude of this opportunity cost is challenging given that border cover could be provided by various sources in future including military personnel, or civil servants. This impact assessment therefore uses the ONS output per worker, per hour figure³¹. This provides a value of £49.06 per worker, per hour which is assumed here to cover the range of possible activities that contingency staff may have been doing in their usual work.
73. Under Option 2 there will be no use of contingency resource and therefore the opportunity costs incurred under Option 1 are incorporated here as benefits of Option 2. The benefits are calculated by multiplying the total number of work hours of contingency staff required under Option 1 by the estimated output per worker, per hour figure which represents the output that contingency staff will now be able to produce in their business-as-usual role³².
74. This calculation is repeated for the low, central, and high scenarios as covered in Table 4. This gives a central estimate of Option 2 annual benefits of £2.2 million, a low estimate of £0.4 million and a high estimate of £8.3 million.

²⁹ The calculation for training cost savings (assuming central scenario strike turnout and frequency, with a contingency usage of 19%) is as follows: *Annual Contingency Training Cost Savings = Average Training Cost per Contingency Worker * (Total BF FTE * Shift Pattern Requiring Coverage) * Strike mandate periods per year * Contingency Resource Usage = £2000 * (10,372 * 0.5) * 0.7 * 0.19 = £1.4m*

³⁰ The calculation for deployment cost savings (assuming central scenario strike turnout and frequency, with a contingency usage of 19%) is as follows: *Annual Contingency Deployment Cost Savings = Average Deployment Cost per Hour * (Total BF FTE * Percentage On Shift) * Strike hours per year * Contingency Resource Usage = £35 * (10,372 * 0.25) * 91.8 * 0.19 = £1.6m*

³¹ See Assumption 2.0 in Table 1 and paragraphs 76-79 for further information.

³² The calculation for opportunity cost savings (assuming central scenario strike turnout and frequency, with a contingency usage of 19%) is as follows: *Annual Contingency Opportunity Cost Savings = (Total BF FTE * Percentage On Shift) * Strike Hours per Year * Output per Hour in BAU Work * Contingency Resource Usage = (10,372 * 0.25) * 91.8 * £49.06 * 0.19 = £2.2m*

c) Value of additional hours of Border Force activity completed

75. These are benefits associated with any increase in hours of border activity that results from the implementation of MSLs for border security. These additional hours provide economic value to society; Border Force are assumed to generate prosperity through their work within the four systems of security, customs, immigration, and health and environment. The setting of an MSL will increase the volume of border work hours completed, where the percentage of rostered work hours under an MSL exceeds the percentage of work hours (completed) during strike action in the do-nothing scenario (Option 1).
76. The percentage of staff working during strike action in Option 2 will be comprised of those staff who are named on a work notice and comprise part of the MSL percentage and those staff that are not named but opt not to take strike action³³. Meanwhile, the percentage working in Option 1 will be a combination of those workers who opt not to turnout to strike during industrial action, and any contingency resource which is brought in to provide cover during strike action. The effectiveness of the policy in meeting its strategic objective will therefore depend on the extent to which the MSL is able to increase levels of border work hours.
77. The value of the Border Force work hours that are gained because of the MSL represent a benefit to society. The broad calculation used for estimating benefits is the number of Border Force work hours saved (that would have otherwise been lost to industrial action) multiplied by the societal benefit of an hour of Border Force staff time. The benefit within this appraisal is generated by using ONS data on gross value added (GVA) for workers in public administration and defence, and dividing by the total productive hours worked. This gives a value of £49.06³⁴ per hour, per worker, which is used as a proxy for the economic output of Border Force staff per hour. Note that this method is similar to that employed by DBT in the Strikes (Minimum Service Levels) Bill impact assessment³⁵.
78. The use of this proxy rather than a more specific Border Force productivity figure is due to an absence of specific data on the monetised value of Border Force to society. Given the challenges associated with measuring the output of public sector activity this will be an imperfect proxy, however, it is underpinned by an assumption that Border Force staff deliver a public service in excess of their cost of employment. This assumption appears reasonable given that Border Force carry out a number of activities which have wider social benefits; these include the provision of public goods such as the preservation of national security, effective trade, tourism, well-managed migration, healthy communities, and the environment. The provision of border security services acts as a deterrent against criminal activity which would otherwise have taken place including the movement of harmful goods and illegal migration.
79. Results are presented in Table 8, they show the relationship between the strike turnout, and strike staffing level under Option 1 'Do-nothing', as well as the staffing level under the MSL options. Staffing under Option 1 in the high scenario (high strike turnout and high strike frequency) only reaches 61.1 per cent as contingency resourcing is capped at 50 per cent of rostered staffing. Staffing levels in Option 2 are comprised of those compelled to work under the MSL and those staff, not named in a work notice, but who decide not to strike. Detail of this methodology is provided in paragraph 83.

Table 8: Value of additional Border Force work hours completed (2023/24 prices)

³³ Employers such as Border Force cannot have regard for whether an individual staff member is part of a union when selecting employees to be named on an MSL work notice. Therefore, it is assumed that staff who are not named within work notices associated with an MSL will be comprised of a mix of those who would and would not have taken strike action in the do-nothing option. For modelling purposes it is assumed that this composition will reflect the overall modelled strike turnout. For example, under a 70 per cent MSL and assuming the central (49%) strike turnout assumption, an additional 15 per cent ($49\% \times 30\% = 15\%$) of non-striking staff will turn up to work on a strike day.

³⁴ See Table 1, assumption 2.0 for full methodology; it is assumed that the productivity of a Border Force staff member is similar to that of a worker in the wider category of public administration and defence (SIC 84).

³⁵ Strikes (Minimum Service Levels) Bill: impact assessment (publishing.service.gov.uk):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1137662/strikes-minimum-service-levels-bill-impact-assessment.pdf

Policy Option	Intended strike turnout	Option 1 (Contingency) strike staffing level	Option 2 (MSL) strike staffing level	Additional Border Force working hours per year	Benefit per year (£, million)
Option 2 – Scenario A (60% Staffing Level)					
Low	36%	70.0%	85.7%	21,386	1.0
Central	49%	70.0%	80.3%	24,461	1.2
High	89%	61.1%	64.4%	11,439	0.6
Option 2 – Scenario B (70% Staffing Level)					
Low	36%	70.0%	89.3%	26,236	1.3
Central	49%	70.0%	85.2%	36,190	1.8
High	89%	61.1%	73.3%	41,670	2.0
Option 2 – Scenario C (80% Staffing Level)					
Low	36%	70.0%	92.9%	31,086	1.5
Central	49%	70.0%	90.1%	47,919	2.4
High	89%	61.1%	82.2%	71,901	3.5

Table 8 Source: Home Office calculations

80. The results demonstrate the additional working hours and resultant benefit that are delivered in Option 2 relative to Option 1. Note that these do not always scale linearly with the low, central, and high scenarios as a higher strike turnout is assumed to restrict those that would attend work beyond those directly named on an MSL work notice³⁶.
81. This approach makes several significant assumptions. The first is that contingency staff are able to effectively deputise for Border Force during strike action. There is no clear evidence available on the productivity differences between full time Border Force staff and contingency cover. Realistically, this is likely to differ across the various tasks which Border Force perform at the border.
82. The second is that the productive value of border activities scales linearly with additional hours of work completed as a result of the policy. There is no clear evidence on whether this assumption is correct, however, should a MSL result in staff, considered crucial to maintaining border security on a given day, being mandated to work then the benefits of these hours saved may be greater than for those staff rostered to be working on other, less crucial, Border Force functions on a strike day.
83. Finally, there is uncertainty about the impact of MSLs on the likelihood of Border Force workers who are not named on a work notice to take strike action. Should the implementation of MSLs increase this figure, it would restrict the number of workers who turn up to work over and above those named on the work notice and diminish the benefits of the policy.

Value of additional hours of Border Force activity completed – worked example

84. Given the complexity involved in the benefits calculations in the IA, a worked example is provided here using a 70 per cent MSL (Option 2 – Scenario B) and the central scenario. The monetised benefit for the value of additional hours of Border Force work completed is calculated as the difference between the output hours gained through an MSL, and the output produced by contingency staff hours in Option 1 ‘Do nothing’. This is calculated as follows:

³⁶ For example, in Option 2a (60% MSL) the high turnout scenario delivers the lowest additional Border Force working hours as very few (4.4%) staff turn up to work beyond those named in the work notice under Option 2. Meanwhile, in the counterfactual Option 1, 50 per cent of rostered staffing is provided by contingency resource in addition to the 11 per cent of staff who do not strike. This results in 64.4 per cent of rostered levels under Option 2, and 61.1 per cent of rostered staffing under Option 1.

- For **Option 1**, a staffing level of 70 per cent is targeted during strike action. Therefore, with a strike turnout of 49 per cent, and a resulting non-striking workforce of 51 per cent, there will be contingency usage of 19 per cent.
- For **Option 2 – Scenario B**, the MSL is set at 70 per cent, meaning that 70 per cent of the in-scope workforce are required to attend work. In addition, of the remaining 30 per cent of Border Force staff (those not named on the work notice), it is assumed that 51 per cent would not have gone on strike in Option 1 and therefore it is assumed that this proportion still attend work in Option 2. This gives a total staffing level under Option 2b of 85.2 per cent.
- The gain in work hours is therefore calculated using the difference in staffing levels (85.2% - 70% = 15.2%) between Option 1 (70%) and Option 2 – Scenario B (85.2%) as an input:

$$\begin{aligned} \text{Hours saved} &= \text{In – Scope Workforce}^{37} * \text{Strike Hours Per Year}^{38} \\ &* \text{Difference between Opt 2 and Opt 1 Staffing} = 2,593 * 91.8 * 0.152 = 36,182 \end{aligned}$$

- The output associated with this gain in working hours is calculated by multiplying the hours saved by the hourly output of a Border Force employee:

$$\text{Output gained} = \text{Hours Saved} * \text{BF Output per employee}^{39} = 36,182 * £49.06 = £1.8m$$

Total ongoing benefits of Option 2

Table 9: Total annual benefits of Option 2, (£ million, 2023/24 prices)

		Low	Central	High	
a.	Cost savings from removing current critical incident planning for strike action	0.08	0.3	0.6	
b.	Cost savings from not requiring contingency staff	0.9	5.3	19.5	
c.	Value of additional hours of Border Force activity completed	Scenario A	1.0	1.2	0.6
		Scenario B	1.3	1.8	2.0
		Scenario C	1.5	2.4	3.5
Total ongoing benefits	Scenario A	2.0	6.7	20.6	
	Scenario B	2.3	7.3	22.1	
	Scenario C	2.5	7.9	23.6	

Table 9 source: Home Office Calculations

85. The total annual ongoing benefits of Option 2 are presented in Table 9. For Option 2 – Scenario A (60% Staffing Level) the benefits are estimated to be between £2.0 million and £20.6 million, with a central estimate of £6.7 million. For Option 2 – Scenario B (70% Staffing Level) the benefits are estimated to be between £2.3 million and £22.1 million, with a central estimate of £7.3 million. Finally, under Option 2 – Scenario C (80% Staffing Level) the benefits are estimated to be between £2.5 million and £23.6 million, with a central estimate of £7.9 million.

Total benefits

86. Table 10 shows the total benefits for Options 1 and 2. Option 1 contains no monetised benefits as it represents business as usual. For Option 2 (Scenarios A-C), some level of benefits are achieved by the policy in each tested scenario. The significant gap between the magnitude of benefits associated with the low and high scenarios reflects the level of uncertainty over the two significant assumptions

³⁷ Assumption 1.1

³⁸ Assumption 1.6

³⁹ Assumption 2.0

underpinning these scenarios: strike turnout and strike frequency. The low scenario represents a low turnout (36%), low frequency (0.4 mandate periods per year) scenario. Meanwhile, the high scenario represents a high turnout (89%), high frequency (1.0 mandate periods per year) scenario.

Table 10: Benefits for Option 1 and Option 2 (2023/24 prices)

Policy Option	Total setup benefit (£, million, constant prices)	Total annual ongoing benefit, (£, million, constant prices)	Total discounted benefit, appraisal period (£, million)
Option 1			
All	0.0	0.0	0.0
Option 2 – Scenario A (60% Staffing Level)			
Low	0.0	2.0	17.3
Central	0.0	6.7	58.0
High	0.0	20.6	177.5
Option 2 – Scenario B (70% Staffing Level)			
Low	0.0	2.3	19.4
Central	0.0	7.3	62.9
High	0.0	22.1	190.3
Option 2 – Scenario C (80% Staffing Level)			
Low	0.0	2.5	21.4
Central	0.0	7.9	67.9
High	0.0	23.6	203.1

Table 10 Source: Home Office calculations

Non-monetised benefits

87. **Increased operational certainty:** The use of MSLs should provide additional certainty to Border Force planning teams in making operational decisions. Under current practices planners will need to estimate the proportion of the workforce that will turnout during strike action and procure contingency resource accordingly. Option 2 will allow them to plan more easily for periods of strike action by providing a clear indication of how many staff they will have available on strike days. In turn, this will bring assurance to other border stakeholders, such as HMRC, the Department for Environment, Food and Rural Affairs, and industry.
88. **Improved economic output:** The provision of MSLs for border security may result in a more dependable border for businesses and the public (including tourists) to move through during periods of industrial action. This is likely to result in economic benefits beyond the direct value provided by Border Force, such as the avoidance of harmful goods entering the UK. These could also include increased international trade and investment as businesses have greater confidence in their ability to move goods without disruption across the UK border, although these trade impacts are not likely to be significant given the relative rarity of strike action by Border Force. It may also improve the reputation of the UK as a place to visit which may lead to some economic benefits to the tourism sector.
89. **Increased government revenue from business and individuals:** Should economic output increase due to a minimisation of strike-related disruption this may lead to increased government revenue through business rates, customs duties, VAT, and other taxation mechanisms. Note that this is separate from the direct prevention of customs duty evasion undertaken by Border Force which is assumed to be captured within the monetised benefits section.

NPSV, BNPV, EANDCB

Net Present Social Value (NPSV)

90. The costs, benefits, and NPSV of these policies (over 10 years) are presented in Table 11. The range in the NPSVs is calculated by comparing the low-cost estimates to the low benefit estimates, and the high cost estimates to the high benefit estimates. This approach is taken to ensure an internally consistent comparison between benefits and costs, given that high costs and benefits assumes a high strike turnout and strike frequency scenario, and low costs and benefits assumes a low strike turnout and strike frequency scenario.

Table 11: NPSV for each policy option, (£, million, 2023/24 prices)

	Costs			Benefits			NPSV		
	Low	Central	High	Low	Central	High	Low	Central	High
Option 1 (Do-Nothing)	0.0	0.0	0.0	0.0	0.0	0.0	0	0.0	0.0
Option 2 – Scenario A	7.1	17.4	41.6	17.3	58.0	177.5	10.2	40.6	135.9
Option 2 – Scenario B	8.0	19.6	47.1	19.4	62.9	190.3	11.3	43.4	143.2
Option 2 – Scenario C	8.9	21.8	52.6	21.4	67.9	203.1	12.5	46.1	150.5

Table 11 Source: Home Office calculations⁴⁰

Value for money (VfM)

91. For a policy to be considered value for money (VfM), it must meet its strategic and policy objectives. **Option 2** meets the strategic and policy objectives of MSL across Scenarios A-C, given that they each increase the number of hours of Border Force activity carried out at the border (Table 8). They also achieve VfM across low, central and high estimates according to the NPSV calculations in Table 11. However, as there are several non-monetised benefits and costs, it is not possible to completely assess the VfM of each of these options.
92. The monetised VfM assessment in this IA is primarily driven by the difference in staffing between those available during strike action in Option 1 ‘Do-nothing’ and those working under each MSL. This in turn drives the cost savings from contingency resource usage and drives benefits arising from the value of additional hours of Border Force activity. As shown in Table 9, the avoidance of contingency resource usage is the most significant source of benefits, delivering annual benefits of between £0.9 million and £19.5 million. In comparison, the value of additional Border Force hours worked through strike prevention delivers annual benefits of between £0.6 million and £3.5 million. Overall, Option 2 achieves positive NPSV across low-high estimates and across scenarios A-C as the MSL achieves the policy objective of lifting service levels above the counterfactual. Of the three options, **Option 2 – Scenario C** delivers the highest level of VfM, whereas **Option 2 – Scenario A** delivers the least.
93. However, there are a number of potential costs and benefits that have not been monetised in this IA⁴¹. These additional considerations could have a significant impact on which option should be considered as the most VfM. It would be logical to assume that some of these costs (especially the reduction in benefits of being in a union and reduced collective bargaining power) would increase as MSLs increase, however the linearity of this relationship is not assessed, and it is likely that those options with higher MSLs would also incur more non-monetised benefits.

⁴⁰ Calculations completed based on an average national MSL, however, in reality, these options may incur further monetised benefits if strike action was prevented on certain days or at certain locations where there is an MSL above expected strike turnout.

⁴¹ See paragraphs 55, and 86 – 88.

94. Given the non-monetised costs and benefits it has not been possible to provide a clear indication of whether Option 2 - Scenario A, B or C would deliver the greater net societal benefit; however, on balance, **it is likely that Option 2 overall would provide VfM in comparison with Option 1 ‘Do-nothing’.**

Place-based analysis

95. This policy does not have any specific spatial objectives, however there are place-based impacts that are worth considering. Currently the analysis in this IA looks at Border Force in Great Britain as a single entity, however Border Force staff are based at a variety of locations across the country, which may be impacted differently by these options. Listed below are several place-based considerations that should be accounted for:
- **Impact on border security by location of Option 2:** Modelling a nationally applied MSL may have divergent benefits and impacts depending on what level of rostered staff are required to work on a strike day. Each Border Force location has different levels of business-as-usual staff utilisation that differ depending on time of year and activity. This means that a set percentage that may mitigate most border security risk in one location, may not mitigate risk in another. Therefore, in practice, the percentage of rostered staff that are required to work on a strike day may differ according to the port and/or region and would not require the redeployment of Border Force staff from elsewhere in the country where no industrial action is taking place.
 - **Local differences in trade union membership:** This IA has assumed that any action will be distributed equally across the country and be co-ordinated by all union members. However trade union membership and strike turnout as a proportion of total Border Force workforce will vary across the country. The impact of this is that some areas may currently (in Option 1) have more limited local impacts of strike action, because they have fewer staff who will go on strike. In these areas, the benefits of these options will be lower. Equally, there are some areas which are currently more impacted by strike action because of the likelihood of their local Border Force staff undertaking strike action. These areas may experience more benefits from the MSL models proposed, as they will have more confidence in business continuity plans in the event of strike action, however, they may also experience more ongoing local strike action in future.

Equivalent annual net direct cost to business (EANDCB) and Business net present value (BNPV)

96. The business net present value (BNPV) and equivalent annual net direct cost to business (EANDCB)⁴² of these options are calculated based on trade union familiarisation costs and legal costs, as well as costs to trade unions related to work notices. See Table 12 below. For Option 2, Scenarios A-C, the total cost to business is estimated to be between £148,000 to £841,000 and so the BNPV is between -£148,000 to -£841,000. The EANDCB is minimal, between £15,000 and £84,000.

Impact on small and micro-businesses

97. Option 2, Scenarios A-C will impact four trade unions – the ISU, PCS, the FDA and Prospect – each will incur familiarisation costs and ongoing work notice costs from the proposals. These are the only businesses in-scope of the proposed MSL model. Analysis of the annual returns of the four in-scope trade unions suggests that these are all small or micro businesses, as although they have large membership numbers, they have few staff⁴³.
98. As trade unions are crucial to Option 2, and all are small businesses, it is not possible to exclude small businesses from the policy whilst still meeting the policy’s objectives and without undermining the policy. The impact of the policy is not expected to be disproportionate on small businesses because the cost to trade unions is expected to be relatively low at no more than £841,000 across the appraisal period (see Table 12).

⁴² The EANDCB is defined as the Equivalent Annual net Direct Cost to Business. It is used as a comparative measure of the administrative burden on business from regulation by the Regulatory Policy Committee (RPC).

⁴³ ‘Trade unions: the current list and schedule’: <https://www.gov.uk/government/publications/public-list-of-active-trade-unions-official-list-and-schedule/trade-unions-the-current-list-and-schedule>

Table 12: Present Value Total union costs (£, 2023/24 prices)

Cost area	Low	Central	High
Familiarisation time for trade union leaders	6,000	12,000	24,000
Legal advice to trade unions	5,000	10,000	20,000
Consultation on the work notice between trade unions and Border Force	72,000	253,000	543,000
Unions informing staff on work notice of their requirement to work on strike days	18,000	63,000	136,000
Picket supervisor familiarisation cost	47,000	83,000	118,000
Total	148,000	421,000	841,000

Table 12 Source: Home Office calculations

F. Proportionality

99. The analysis in this IA contains best estimates for the cost and benefits of the proposed policy. Every effort has been made to ensure the analysis presents the best possible estimate of the likely impact of the preferred option, given the time, resource and data available. These have been quantified where data is available, and the main assumptions have been tested internally through sensitivity analysis. Therefore, the level of analysis in this IA is considered proportionate to appraise the impact of the Border Security MSL Secondary Legislation.

G. Risks

100. The monetised benefit of this IA assumes that strike hours will be prevented because of this policy. Any displacement of strike hours (for example, through action short of strike, or an increase in the volume of strikes) will reduce the NPSV of this policy and have not been monetised.
101. The IA assumes full compliance from staff with regulation, however, staff who are trade union members may not conform to MSL regulation and seek to enlarge strike numbers due to union solidarity or other congruent reasons for example, poorly enforced regulation.
102. This IA makes no assumption about the distribution of costs and benefits on individuals. Future strike action under a MSL may only be carried out by those individuals who are not served work notices. These individuals would bear the cost of striking (in terms of foregone wages), however, all individuals employed by Border Force, even those who did not strike, may gain from the results of strike action.
103. As Border Force staff numbers based at some smaller ports and airports are very low, Option 2 could mean that staff based at these locations are more likely to receive work notices, thus they are less likely to be able to undertake strike action, when compared with other staff. Similarly, the requirement to maintain particular border security functions during strike action could mean that officers trained in critical functions are less likely to be able to undertake strike action than those who have not taken

the training. This IA has not assessed the impact on staff willingness to be located at smaller Border Force outposts or to undergo the training necessary to carry out critical border security functions.

H. Direct costs and benefits to business calculations

104. A full breakdown of costs to business are set out in Table 12. The total cost to businesses is set out in Table 13 below, there are no costs of Option 1. All costs to businesses are assumed to be minimal.

Table 13: Present Value Costs to business (£, million, 2023-2024 prices)

Option 2, (£, millions)	Low	Central	High
Total set-up cost to business	0.01	0.02	0.04
BNPV	-0.1	-0.4	-0.8
EANDCB	0.01	0.04	0.08

Table 13 Source: Home Office Calculations

I. Wider Impacts

105. An Equality Impact Assessment has been completed as part of the consultation planning process, considering potential impacts of MSL both on Border Force workforce and on the travelling public. The main conclusions from the EIA are as follows:

- a) Potential impacts of these changes have been considered for two cohorts: Border Force employees; and the travelling public. Regarding Border Force employees, management information about the sex and age of Border Force employees shows that around 60 per cent are male and that over 30 per cent of Border Force's total workforce are aged between 50-59. The department do not have data of comparable quality about other protected characteristics. The Home Office's assessment is that as the policy will apply to Border Force as a whole, there is no anticipated direct discrimination against any of the nine characteristics.⁴⁴
- b) Any possible indirect disadvantage resulting from this policy is proportionate and justified to ensure the border remains secure in the event of strike action; this could include ensuring essential border services such as immigration controls, custom checks and patrolling of the seas continue to be delivered to keep the border secure and the country safe. Any possibility of indirect impact will not amount to indirect discrimination. The Home Office will continue to assess the impact of the MSL policy on its workforce.
- c) Regarding the travelling public, again, the policy will apply to this sector of the population as a whole. There is no anticipated direct or indirect discrimination, however, the policy may have a positive impact on disabled and vulnerable people. This is because disabled people may find it easier to travel on a strike day if MSLs are in place. MSLs will ensure appropriate safeguards are in place to support vulnerable people. The same may be true of people who have a vulnerability which makes it hard for them to travel. This view was reflected in the responses received from the consultation.

106. MSLs will also cover other sectors, including health services; education; transport services; decommissioning of nuclear installations and management of radioactive waste and spent fuel and

⁴⁴ Border Force internal data as of 28 February 2023.

fire and rescue services⁴⁵. The total societal impact of this legislation should therefore be considered alongside the impact of accompanying legislation in other government departments.

107. The Environment Act 2021⁴⁶ places a legal duty on ministers to have due regard to the environmental principles policy statement. Our assessment is that this policy has no direct, indirect or cumulative environmental effects, positive or negative.

J. Trade impact

108. The policy has not been designed to have specific trade impacts and there are not expected to be direct impacts on trade from this policy. However, there may be some indirect impacts; the policy is expected to decrease the risk of friction at the UK border during strike action and may thereby reduce any costs that strike action would otherwise have on industry. This could also lead to some increase in trade and investment as businesses have greater confidence in their ability to move goods without disruption across the UK border. Nevertheless, given the relative rarity of strike events by Border Force it is not expected that this would lead to a significant change in the long-term behaviour of those importing to, or exporting from, the UK.

K. Monitoring and evaluation plan

109. MSLs will only be used during strike action, which means that if there are no strikes, there will be no use of an MSL to monitor and evaluate. If strikes do happen, success will be measured against the policy and strategic objectives; however, any evaluation is likely to be complex due to difficulties in establishing a counterfactual. If strikes do not happen, monitoring of the overarching policy itself will likely include considering the degree to which the existence of the MSL, even if not used, has impacted on collective bargaining power.
110. Either way, the efficacy of the policy will be reviewed alongside other workforce matters as part of the regular cycle of workforce planning undertaken by the Home Office.

⁴⁵ Sourced from DBT MSL IA – <https://www.gov.uk/government/publications/strikes-minimum-services-levels-bill-2023>

⁴⁶ The Environmental Act 2023 - <https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>

L. Annexes

Impact Assessment Checklist

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p data-bbox="124 398 507 432">Statutory Equalities Duties</p> <p data-bbox="124 450 1305 551">Home Office officials are actively considering the impact of MSL and how it might or will affect people with protected characteristics. This is an ongoing process. Policy officials will regularly review the Equality Impact Assessment (EIA) as the policy options develop.</p> <p data-bbox="124 568 1241 633">An EIA was completed as part of the consultation planning process. A summary of its findings is provided in paragraph 104.</p> <p data-bbox="124 651 635 685">The SRO has agreed these findings.</p>	<p data-bbox="1390 517 1445 551">Yes</p>

Economic Impact Tests

<p data-bbox="124 801 807 835">Small and Micro-business Assessment (SaMBA)</p> <p data-bbox="124 835 703 869">A SaMBA has been carried out in section E.</p>	<p data-bbox="1390 819 1445 853">Yes</p>
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