

<b>Title:</b> Requiring more information on the payslips of hourly-paid employees and extending the right to receive a payslip to workers.  <b>IA No:</b> BEIS005(F)-18-LM <b>RPC Reference No:</b> RPC-4190(1)-BEIS <b>Lead department or agency:</b> Department for Business, Energy and Industrial Strategy <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 01/02/2018
	<b>Stage:</b> Final stage
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
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<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> GREEN
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-254.21	-250.46	26.1	Not applicable	To be determined

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

***Extending the Right to Receive a Payslip to Workers***  
Workers – as distinct from employees - are not by law entitled to receive a payslip. Despite having no such legal right, we understand that some workers do currently receive a payslip; particularly those workers who work alongside employees (since individual employers do not typically differentiate between the two). Consequently, there is a lack of transparency for workers regarding their pay because, in many cases, they are not entitled to receive any of the statutory information required on an itemised pay statement.

***Requiring the number of hours employees are being paid for to be stated on their payslip***  
In their 2016 Spring report, the Low Pay Commission (LPC) made a non-rate recommendation that the government should consider introducing a requirement that payslips of hourly-paid staff clearly state the hours they are being paid for. Currently, under the NMW Act, employers are required to keep a record of information sufficient to establish that the employer is remunerating the worker at a rate at least equal to the National Minimum Wage (NMW). A worker only has a right to access this information upon request. This right is also qualified: the worker can only access the information to determine whether they are being paid the NMW when they reasonably believe they are not. As a result, workers that are paid according to their time worked may not have sufficient information to identify whether the hours that the employer is using to calculate their gross pay is commensurate with their own understanding.

Government intervention is required in both of these areas to enable workers and employers to benefit from the same level of transparency over pay provided by an itemised pay statement, with transparency improved by the compulsory inclusion of hourly information. This information will in turn help employees and workers assess whether they have been paid correctly, and empower them to challenge their employers or contact ACAS / HMRC where they think they have been underpaid, and thereby also lead to decreasing rates of underpayment.

**What are the policy objectives and the intended effects?**

***Extending the Right to Receive a Payslip to Workers***  
The policy intention is to provide workers with the right to receive an itemised pay statement so they can assess whether they have been paid correctly from the information on a payslip, including from the number of hours they are being paid for. This information will in turn empower workers to challenge their employer or contact ACAS or HMRC if they disagree with the information provided. We expect this to lead to fewer cases of underpayment, ensuring that a higher number of workers are paid correctly.

***Requiring the number of hours employees are being paid for to be stated on their payslip***  
The policy intention is to increase transparency over whether employees are paid correctly, with the ultimate objective of increasing NMW compliance. We intend to do this by requiring employers to provide more information to employees on the number of hours they are being paid for. This should help employees to identify at the point of reading a payslip, whether the number of hours the employer has paid for is commensurate with their own understanding. We expect that the additional information will empower employees to challenge their employer if they disagree with the figure. Without this evidence, the employee may be reluctant to challenge the employer if they think there has been a miscalculation leading to underpayment.

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

Option 1 - Do nothing: this would maintain the existing requirements on what should be included on payslips, which does not include the number of hours paid for, and would continue to apply to employees only.

Option 2 (preferred option)

- A. extend the right to receive a payslip to all workers to all workers (including those undertaking unmeasured, output, salary and time-work);
- B. and require all employers to put the number of hours paid for on payslips for both workers and employees who are paid according to the time they have worked

Option 3 - require all employers to state the on the payslips of all their 'timed' employees, the "number of hours and pay for NMW purposes" (defined by the NMW act).

Option 4 - Non-regulatory option: employers would be encouraged to voluntarily provide the hours paid for on the payslips of their employees that are paid according to their time worked. In parallel, we would issue guidance and run promotional campaigns.

**Will the policy be reviewed?** It will not be reviewed. **If applicable, set review date:** Month/Year

Does implementation go beyond minimum EU requirements?		No		
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b>		<b>Non-traded:</b>

***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: Andrew Griffiths Date: 1 February 2018

# Summary: Analysis & Evidence

# Policy Option 2

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -444.44	High: -127.77	Best Estimate: -254.21

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	22.6	12.2	127.8
High	23.9	48.9	444.4
Best Estimate	23.1	26.9	254.2

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

The total one-off cost to employers is estimated to be £23.1 million. This includes all employers having to familiarise themselves with the proposals (£13.8 million), and 12% of employers having to upgrade their payroll software in order to comply with the inclusion of hours proposal (£9.3million).

There could be significant ongoing costs (£26.9 million) for some employers who only employ workers (workers employed alongside employees receive payslips – we estimate 1% of the workforce currently don't receive a payslip and that all of these are workers), as they have to produce a payslip from scratch (£4.9 million), and then the extra burden of inputting for employers to record the number of hours into their payroll systems (£22 million).

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

The net effect this proposal could have on the quantity of challenges that employers, HMRC, ACAS and employment tribunals have to deal with is unclear. However, provision of extra information should increase the number of well-founded, evidence-based challenges. In addition, due to the employees being more informed, it should reduce the number of 'unfounded' challenges. Given the insufficient evidence to support either direction, we have not been able to monetise the impact. In any case the impacts would be indirect as they rely on behavioural responses.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	-	-	-

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

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

Workers would benefit from receiving a payslip for the first time and both employees and workers would benefit from an increase in the information provided on their payslips, both of these scenarios leading to a greater chance they are able to identify a discrepancy or underpayment, which in turn, could lead to identification of arrears. This is expected to be disproportionately beneficial for low paid workers as we expect this group is most likely to be hourly paid according to time worked rather than salaried. Therefore there is the potential for distributional impacts within the income distribution.

Employers could benefit from more motivated employees leading to an increase in productivity. They may also benefit from higher employee retention rates leading to lower recruitment costs. As mentioned in the section above, the net effect on the quantity of challenges that HMRC, ACAS, employers and employment tribunals would have to deal with is unclear.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
1% of workers do not receive a payslip and are employed in small and micro businesses only 88% of employers already comply by providing hours on payslips 47% of employees are 'timed' employees (paid according to the number of hours they work) Payroll frequency of 26 weeks per year (i.e. fortnightly)		

### BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only):
Costs: 26.1	Benefits: -	Net: -26.1	

# Evidence Base (for summary sheets)

## Problems under consideration

### ***Extending the Right to Receive a Payslip to Workers***

1. Workers – as distinct from employees<sup>1</sup> – are not by law entitled to receive a payslip. Despite having no such legal right, we understand that some workers *do* currently receive a payslip; particularly those workers who work alongside employees (since individual employers do not typically differentiate between the two). However, there remains a significant minority of the workforce – we estimate around 290,000 people – who i) have no right to receive and payslip and ii) do not receive a payslip. These workers lack the information required to provide transparency over their pay, or any of other the statutory information listed under section 8 of the Employment Rights Act 1996, specifically:
  - gross amount of the wages or salary,
  - the amounts of any variable and fixed deductions from that gross amount and the purposes for which they are made,
  - the net amount of wages or salary payable; and
  - where different parts of the net amount are paid in different ways, the amount and method of payment of each part-payment.
2. In order to calculate pay for their hourly-paid staff, businesses already need to know how many hours individuals have worked. So this is about sharing the basis of the calculation more explicitly than at present, thus increasing transparency. This provides a key piece of information for the worker to help reconcile hours and pay.
3. In addition, under the NMW Act, employers are currently required to keep a record of information sufficient to establish that the employer is remunerating the worker at a rate at least equal to the National Minimum Wage (NMW). A worker only has a right to access this information upon request. This right is also qualified: the worker can only access the information to determine whether they are being paid the NMW when they reasonably believe they are not. As a result, workers that are paid according to their time worked may not have sufficient information to identify whether the hours that the employer is using to calculate their gross pay is commensurate with their own understanding.

### ***Requiring the number of hours employees are being paid for to be stated on their payslip***

4. In their 2016 Spring report<sup>2</sup>, the Low Pay Commission (LPC) made a non-rate recommendation that the government should consider introducing a requirement that payslips of hourly-paid staff clearly state the hours they are being paid for. The report states that a cross-cutting problem impeding workers bringing cases of non-compliance to HMRC and ACAS, and preventing HMRC from enforcing the minimum wage, is uncertainty regarding the number of hours for which employees and workers are being paid. This issue was raised in written and oral evidence and during the LPC visits around the UK in 2016, where unions argued for clearer pay statements. Currently employers are only required to provide the items listed in paragraph one above.
5. According to a survey conducted by Unison that was sent out to workers in the social care sector, 63% of respondents said that it was not easy to tell from their payslip whether they are being paid for all the hours they are working. Although this may not be representative of employees in other sectors, it outlines the difficulty some workers have.
6. As described at paragraphs 2 and 3 above, employers must already hold much of this information. The proposal builds upon the existing requirement for employers to maintain records for NMW purposes.

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<sup>1</sup> Employees are a subset of workers and they have more employment rights than workers. See annex B for an illustrative Venn diagram demonstrating this concept.

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/571631/LPC\\_spring\\_report\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/571631/LPC_spring_report_2016.pdf)

## **Rationale for intervention**

7. For employees and workers who are paid according to the time they have worked, if their hours worked vary across different pay reference periods, the corresponding pay also varies. If there is no payslip for workers, or the payslip is not transparent for employees, such that the number of hours paid for is not evident, employees are less likely to know whether the hours paid for is commensurate with their own understanding. This asymmetric information could mask any inaccuracies or unintentional mistakes in relation to the number of hours and, in turn, make it difficult for workers to identify an issue. In addition, it could lead to a moral hazard problem where unscrupulous employers use this non-transparency as a tool to underpay employees knowing that it is difficult for them to challenge without having the information needed to instigate a challenge.

## **Policy objectives**

### ***Extending the Right to Receive a Payslip to Workers***

8. This policy aims to provide workers with transparency regarding their pay, through the extension of the existing legal entitlement to an itemised pay statement as outlined in paragraph one above, and the number of hours they are being paid for (part two of proposal). This information will help workers assess whether they have been paid correctly, and in turn empower them to challenge their employer or, contact ACAS or HMRC if they disagree with the information provided. Ultimately, a higher number of cases of underpayment may be identified and reconciled, ensuring that a higher number of workers are paid correctly.

### ***Requiring the number of hours employees are being paid for to be stated on their payslip***

9. The policy intention is to increase the transparency and the information provided to employees on the number of hours their employer is paying them for. This would help employees to identify at the point of reading a payslip, whether the hours the employer has paid for is correct and, subsequently, could empower them to challenge their employer or, contact ACAS or HMRC if they disagree with the figure. Without this evidence, the employee may be reluctant to challenge the employer if they think there has been a miscalculation leading to underpayment.
10. For employees that are paid the same rate of pay for all the different types of hours they have worked (i.e. overtime and travel hours) and do not receive additional payments (e.g. bonuses) or deductions, employees would be able to identify NMW non-compliance by dividing their gross pay with this number of hours stated. Therefore, as an additional benefit of this proposal, for those employees with relatively straight-forward pay arrangements, we expect underpayment and the percentage of NMW non-compliance to decrease. This will not be the case for all employees and, where pay arrangements are more complex, further interpretation would be required in order to determine NMW compliance. However, the provision of additional information relating to hours will still be beneficial in raising transparency and could empower employees to challenge their employer, or contact HMRC or ACAS (who have more technical expertise to see whether the employer is NMW compliant).
11. Equally, the added transparency may also prevent confusion and some employees may see from their payslip that they are being paid correctly where previously they may have thought they were not, leading to a reduction in the number of 'non-founded' cases, meaning more HMRC resources are focused on high quality, legitimate cases.

## **Description of options considered (including status-quo)**

### **Option 1: Do nothing**

12. Currently, as there is no requirement for employers to state the number of hours the gross pay relates to, this can lead to employees being unaware of whether the number of hours the employer is paying for is commensurate with their own understanding of what they have worked in that period. Furthermore, there is no requirement for employers to provide a payslip to workers.

In turn, this may deter workers and employees from challenging the employer or contacting ACAS if they think the pay is incorrect.

## Option 2 (preferred option)

### *A. Extend the right to receive a payslip to all workers*

13. Under this proposal, the right to receive a payslip will be extended to all workers (including those undertaking unmeasured, output, salary and time-work), along with the revised information that needs to be stated on a payslip, according to part B of this proposal, i.e. time-paid workers will also receive the number of hours they are being paid for on their payslip.
14. For workers who undertake both salary and time work, only the number of hours paid for according to time, would be needed to be recorded on the payslip. Employers, who do not comply with the proposal's requirement to provide the hourly information on a payslip, can be sanctioned by an Employment Tribunal issuing a declaration against them. The Employment Relations Act power extends to England, Scotland and Wales, but not Northern Ireland (NI) and, therefore, for the purposes of this IA, the estimated impacts do not cover NI. If this legislation is copied across to NI, the Northern Irish Government will complete a separate impact assessment.

### *B. Require all employers to put the number of hours paid for on payslips for both workers and employees who are paid according to the time they have worked*

15. This option implements the proposal by requiring that employers must, on the payslips of all 'timed' employees<sup>3</sup>, provide the number of hours that they are being paid for. This can either be aggregated so that the total hours paid for are shown, or it can be separated by different types of work or different rates of pay. Therefore, those employers that are already providing a breakdown of the number of hours by different rates or type of work would not have to change their current transparent practices.
16. If workers are not provided with a right to receive a payslip, this proposal will only apply to employees. For employees who undertake both salary and time work, only the hours paid for according to time, would need to be recorded on the payslip. Employers who do not comply with the proposal's requirement to provide the hourly information on a payslip can be sanctioned by an Employment Tribunal issuing a declaration against them.
17. The Employment Rights Act power extends to Great Britain and not Northern Ireland (NI) and, therefore, for the purposes of this IA, the estimated impacts do not cover NI. If this legislation is copied across to NI, the Northern Irish Government will complete a separate impact assessment.

## Other options considered

### *NMW hours and pay*

18. We considered an option to require all employers to state the number of hours and pay for NMW purposes (defined by the NMW Act) on the payslips of all their employees that are paid according to their time worked. This option would cover both workers and employees; though because the Employment Right Act does not currently entitle workers to a payslip, workers would only have the right to receive a NMW statement which shows the hours and pay for NMW purposes. In practice of course, employers could choose to provide a full payslip to these workers showing the same information.
19. This requirement could be simple in most cases where the hours paid for are the same as the hours applicable for NMW purposes<sup>4</sup>. However, in response to our informal consultation, stakeholder responses highlighted there would be confusion around how to disentangle NMW applicable hours when they are not the same as the total hours paid. As hours for NMW purposes excludes rest breaks, holidays, sick leave and maternity leave, employers would now

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<sup>3</sup> For the purposes of this impact assessment, we define a timed employee as someone who is paid according to the time they have worked

<sup>4</sup> NMW hours do not include certain hours such as holiday hours, rest breaks, sick leave and maternity leave.

be required to separate these and aggregate them as new information on a payslip. Employers highlighted that it would be burdensome for all employers, including those who are NMW compliant (i.e. paying rates far in excess of the minima). Employers would either incur high one-off transition costs for implementing a monitoring system for rest breaks, or high ongoing costs for employers who would calculate rest breaks on an ongoing basis. In terms of scale, based on our initial estimations, both are expected at the minimum, to be in the low hundreds of million. In view of the confusion and the likelihood of burdening employers who are currently transparent and compliant with the NMW, we have decided not to proceed with this option.

### *Non-regulatory option*

20. We have also explored the option of encouraging employers to voluntarily provide more information in their payslips. Under this option employers would be encouraged to voluntarily provide the hours paid for on the payslip of employees that are paid according to their time. In addition, the government would run promotional campaigns to assist employees understanding their payslips.
21. We have decided to not proceed with this approach in isolation as we would not expect full compliance – so some workers would still be without information in their payslips which might otherwise have helped them challenge underpayment. A non-regulatory approach is unlikely to change behaviour amongst the hard-to-reach; it is likely that the unscrupulous employers, who underpay workers and do not provide this transparency, would continue to not provide this information under this option.

## **Monetised and non-monetised costs and benefits**

### **Costs**

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

#### **Familiarisation**

#### **Extending the right to receive a payslip to workers**

22. The vast majority of the UK workforce is legally classified as employees, although many individuals do not know what their employment status is. Engagement with stakeholders found that businesses employing both workers and employees do not differentiate between them when it comes to providing pay information. For these reasons it is difficult to estimate the number of workers in the UK and the Office for National Statistics (ONS) does not distinguish between employees and workers when collecting labour market statistics. Moreover, the recent increase in the size of the gig economy in the UK makes it difficult to fully ascertain whether an individual is a “worker” or self-employed – the former having more employment rights than the latter.
23. Earlier in the year, the Chartered Institute of Personnel and Development (CIPD) undertook a survey of 1,700 employees and workers – they did not take into account the distinction between them and so the sample includes both. The survey found that 1% of respondents did not receive any information about their pay. Given that employees are legally entitled to receive a payslip, if we assume full compliance with existing legislation which is standard practice in impact assessments, we can use this 1% as a proxy for the number of workers in the UK who do not receive a payslip.
24. This 1% represents a small number of survey respondents; therefore it is not possible to provide further breakdowns according to sector, occupation or income. Anecdotally, we do know that certain sectors may have more workers than others, for example the construction industry. Given the true number of workers who do not receive a payslip may differ from 1% of the workforce, we conduct sensitivity analysis around this assumption by using 0.5% as a lower bound and 2% as an upper bound.
25. Stakeholder consultation provided a strong indication that businesses that employ a mixture of both employees and workers typically provide a payslip to both types of staff. This appears credible given the likely minimal marginal cost of providing a payslip to additional workers once

systems are in place. When considering the burden of this proposal, we make the assumption that medium and large employers (50+ employees) are likely to utilise a mixture of both employees and workers. Consequently we assume the 1% of the workforce who are workers and do not receive a payslip are employed in small and micro sized businesses (fewer than 50 employees). This is a conservative approach because if we assume the 1% of workers are employed in businesses of all sizes then the number of workers would be spread more thinly over the distribution, and so the number of employers impacted by the proposal would be less.

26. The Business Population Estimates (BPE)<sup>5</sup> provide a breakdown of employees by firm size but as with the ONS statistics, they do not make a distinction between employees and workers. According to the BPE there were 29 million employees/workers in the UK. Using our 1% proxy represents **290,000 workers employed by firms with 49 employees or less** who do not currently receive a payslip. This is the number of workers we expect to benefit from this policy proposal. However this will be an overestimate because the BPE are UK-wide (and hence include Northern Ireland), and the amendment to the Employment Rights Act will apply only to Great Britain. Therefore the number of affected individuals is likely to be marginally fewer (discussed below). Using our 0.5% and 2% sensitivity assumptions, produces a range of between 145,000 and 580,000 employees affected by this proposal.
27. The BPE provides the number of employees employed across the firm size distribution. We assume the 1% of workers who do not receive a payslip are spread according to the firm density of small and micro businesses (between one and 49 employees) across the firm size distribution. We estimate there are **72,196 employers in the UK who employ workers and currently not providing payslips** (we estimate a range of 36,098 – 144,391 businesses). Therefore we expect a large number of employers to already be compliant with this proposal and here we only capture familiarisation costs incurred by those affected. Familiarisation costs for all other businesses, including businesses already providing payslips to workers, are captured in the following section regarding including hours on payslips.
28. We assume it would take 30 minutes for a member of staff to familiarise themselves with the contents of section 8 of the ERA. This is on the basis that the ERA contains a clear and concise list of requirements of what information employers must put on payslips (which will also include the additional requirement of hours paid for, as outlined in the other part of this impact assessment).
29. Given the types of firms affected, we assume a manager, director or senior official will carry out this task. To estimate the opportunity cost of the directors time, we use the 2016 Annual Survey of Hours and Earnings (ASHE) data<sup>6</sup>, which states that the median hourly wage of a manager, director or senior official, uplifted for non-wage labour costs (19.8%) is £23.61 per hour. This gives us the total cost of familiarisation for the **72,196 businesses affected by this part of the proposal at £0.9 million**. We expect this to be a marginal over-estimate because this is based on UK BPE figures, whereas this regulation relates to Great Britain only. BPE do not provide employment by employer size for Northern Ireland, therefore we are unable to estimate for Great Britain only. However given only 2% of businesses are based in Northern Ireland, we do not expect the true figure to be significantly different.

#### Requiring the number of hours employees are being paid for to be stated on their payslip

30. According to the 2016 Business Population estimates (BPE), there are 5.5 million businesses in the UK (excluding Northern Ireland). This figure includes the private sector, central and local government, and non-profit organisations. We assume that all businesses that do not employ only workers (since these are captured above) would have to familiarise themselves with the proposal. Here we also capture the cost of all other businesses confirming they are compliant with the first proposal of extending payslips to workers. Using BPE data, which provides the breakdown of businesses by their employee size bands, we estimate that 3.3 million businesses have no employees (assumed to be sole proprietorships and partnerships). Therefore, we

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<sup>5</sup> <https://www.gov.uk/government/statistics/business-population-estimates-2016>

<sup>6</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/previousReleases>



estimate that 2.1 million employers (adjusting for the 72,196 businesses in the previous section) would have to familiarise themselves with this part of the proposal.

31. The type of employee that would conduct this task would vary depending on the size of the business. For small employers, it is often the director that would familiarise themselves whereas, for a larger employer, it could be a payroll manager or wage clerk that conducts this task. Given the variations, as a conservative estimate, we assume all businesses would require a director to familiarise themselves. To estimate the cost we assume it would take 15 minutes for a director to familiarise themselves with this proposal. This is on the basis that firms should be familiar with the existing ERA requirements of what is required on a payslip – as they are already providing payslips to employees – and all they need to do is note the additional requirement of providing the number of hours on the payslips.
32. As before to estimate the opportunity cost of the directors time, we use the median hourly wage of a manager, director or senior official, uplifted for non-wage labour costs (19.8%) from 2016 ASHE, which was £23.61 per hour. This gives us the total cost of familiarisation for all 2.1 million businesses to be **£12.9 million**. Considering that many businesses currently comply with the proposal, we do not think the full 15 minutes would be needed and therefore this is a conservative estimate.

## Implementation

### Requiring the number of hours employees are being paid for to be stated on their payslip

33. Existing businesses already producing payslips but now have to provide hours will be using a variety of the payroll methods and different adjustments will be required to these. We have identified four different payroll methods:
  - Free payroll software (only available to employers with 1-9 employees)
  - 'Off the shelf' paid software
  - Their own bespoke software
  - A payroll bureau/agent

### *Micro employers using HMRC payroll software or any other free payroll software*

34. Micro employers (defined as those with 1-9 employees) are eligible to use most free payroll software. Based on conversations with software providers and online research, some free software has payslip functionality, but some, such as the HMRC free payroll software does not. However, we have been unable to establish what proportion of micro employers use free payroll software that does not have payslip functionality. In view of this, as a conservative assumption, we assume that **all** employers are using software that does not have payslip functionality, and would be required to change an 'online payslip template'<sup>7</sup>.
35. We exclude the 3.3 million (40%) businesses that do not have employees as we assume they would not have to make any changes. 2016 BPE estimates suggest that there are 1.9 million micro employers (1-9 employees excluding those in NI). We assume all of these employers use free payroll software that is available to them. Some of the 1.9 million employers that are assumed to use free software would already be compliant with the measure and would not be required to implement any changes. According to a snap poll<sup>8</sup> conducted by the Chartered Institute of Payroll Professionals (CIPP) that went out to employers, 88% of employers already put the number of hours an hourly-paid employee is paid for on the employee's payslips. The respondents of this poll covered employers of different sizes across a wide range of sectors. We infer that these employers either provide the hours in an aggregated form, or provide a full breakdown of hours against the different rates of pay, either of which would be compliant with the proposal. Using this as a proxy, we estimate that 231,379 micro employers (12%) would be required to change their specific payslip template. A similar poll by the Chartered Institute of

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<sup>7</sup> Some employers using free software may have a payslip template created on their computer; this is then filled out for every employee.

<sup>8</sup> The poll had 933 responses that cover businesses from various sectors and sizes.

Personnel and Development (CIPD) found that 82% of employers already include hours on payslips – relatively close to the 88% from the CIPP poll. Although we deemed the responses to this survey to be less representative of the business population and had a smaller sample size. Consequently we stick with our 88% assumption.

36. We assume that templates would be quite straight forward in the form of adding an extra box labelled hours on their payslip template (using Microsoft word). We assume it would take a maximum of an hour, for a director to make this adjustment. Using 2016 ASHE data, this would cost each employer £23.61, resulting in the costs for all 231,379 micro employers to be **£5.5 million**. This is a conservative estimate as most employers should be able to do this in less than an hour, or most employers may already have a space for hours on their template but are not using it.

#### *Employers with 10 or more employees*

37. Using 2016 BPE data, we estimate that there are 262,470<sup>9</sup> employers with more than 9 employees. Using the assumption that 88% (CIPP survey) are already compliant with this measure, we estimate that 31,496 employers would now need to make changes. Another survey by CIPP showed that 89% of employers conduct payroll in house. We use this as a proxy to estimate that 28,127 uses either bespoke or paid payroll software, and all others outsource to a bureau or agent. In addition, the CIPP survey showed that 97% of in house payroll respondents used paid payroll software and 3% used bespoke software. Using these as proxies, we estimate the 27,283 of these employers use paid payroll software, and 844 use bespoke software.

#### *Paid payroll software*

38. From our stakeholder meetings, software providers that were present confirmed that all of their paid products offer the function to record hours and display it on the payslip. They mentioned that in most cases, the software provider would be able to make the adjustment of showing hours on the payslip at no costs as it is a straightforward procedure. This is because, as part of most of their service agreements they would not charge the employer to configure this setting and, in some cases, they agree to provide software that is compliant with the latest legislation, therefore if the law is changed to require hours on payslips, then they will provide updated software free of charge. Also in some cases, employers themselves would be able to make this adjustment to the settings at negligible cost. However, from our engagement with employers who said they do not have this function to display the hours on the payslips, one employer said that their provider would charge them £850 to now display the hours on the payslip. We expect this to be the most extreme cost scenario; for example, which could occur where the costs of implementing changes have been contractually agreed between an employer and software provider. Where there is no contractual agreement, a rational business would buy in new software if the adjustment costs proposed by an existing provider were too high. Given most providers have said they offer a product that is compliant with the law; we deem it unlikely that many providers will charge to make the change to include hours; and if they do a business will likely switch to an alternative provider. An alternative software provider is Moneysoft<sup>10</sup>, which charges £130 per year for payroll software for up to 100 employees (others charge less for unlimited employees – see Annex A). Therefore, as a conservative assumption we assume it would cost £130 for **all** of the 27,283 that do not show the hours on the payslips of employers. Therefore, we estimate the costs to employers using paid payroll software to be **£3.5 million**.

#### *Bespoke payroll software*

39. Similar to the above, we assume that **all** 844 employers using bespoke software would need to make an adjustment to their software to show the hours on the payslips. This adjustment may require employers to further align their HR and payroll systems (which in some cases may be separate). Given that the internal bespoke systems may be quite difficult to configure to now allow this function, employers may have to outsource this technical change to their bespoke system to an IT consultant. We have conservatively assumed it would take 8 hours of an IT professional's time. Using ASHE 2016 data as a proxy the median hourly wage of an IT director

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<sup>9</sup> Excluding employers in NI

<sup>10</sup> See paragraph 45 below for a further explanation and source of Moneysoft.

is £41 (including an uplift of non-wage labour costs of 19.8%). We therefore estimate that it would cost a total of **£0.3 million** across all employers using bespoke systems. Again this is a conservative assumption as we estimate that most of the employers using bespoke systems are larger firms with an in-house IT technician who should be able to adjust this at a lower cost.

#### Payroll bureaus

40. From our stakeholder engagement, all payroll bureaus stated that their payroll systems currently have the function to record and show the number of hours for employees that are paid according to their hours worked. We therefore estimate there are **no costs** to payroll bureaus as a result of this proposal.

#### Software providers

41. Similarly we do not estimate there to be any cost for software providers. All the obligations of the proposal are on employers and, therefore, any costs that software providers incur as a result of conducting some configuration changes would either be voluntary as part of the existing service agreement, or passed onto employers.

### Ongoing costs

#### Extending the right to workers to receive a payslip

42. Conducting payroll is comprised of two components: firstly a 'payment run', which is the main back office inputting of hours and calculating PAYE etc., and secondly producing payslips. We believe businesses affected by this proposal will already be conducting payment runs in order to pay their workers, but they will not be conducting the second part – i.e. producing a payslip. The CIPD and Federation of Small Businesses (FSB) both agreed that businesses that employ workers will have some experience with payroll activities.
43. As described in paragraph 33, from stakeholder engagement we have identified four different methods in which businesses conduct payroll. The cost of these payroll options varies depending on the size of the business. Some payroll software providers, as well as HMRC, provide free basic software – which does not produce payslips – to micro employers (less than 10 employees), whilst larger businesses will pay an annual subscription for 'off the shelf' software, the price of which can vary depending on the features included in the software, such as producing payslips. As a prudent assumption we assume that **all** of the 72,196 impacted businesses currently use a software provider that does not produce payslips and therefore will be required to switch to an alternative "off the shelf" software provider that can produce payslips, and will be required to pay an annual subscription. We deem it unlikely that any small or micro sized business will opt for bespoke software. This is a conservative approach as many micro businesses may produce written payslips by hand<sup>11</sup>, which would result in reduced costs.
44. We do not know how many of the 290,000 workers who do not receive a payslip are 'salaried' workers or 'timed' workers. As workers are generally employed on a contractual, time-limited basis, we assume **all** workers who do not receive payslips are 'timed' workers. We also assume that **all** workers who do not receive a salary are employed by the private sector. This is based on the fact public sector employers will likely employ a mixture of both workers and employees, and as stated in paragraph 20, stakeholder evidence indicated that workers employed alongside employees will receive a payslip.

#### Private sector ongoing costs

45. From our online research, we found Moneysoft software for employers with up to 20 employees at £65 per year, and £130 per year for employers with up to 100 employees. These prices are for Moneysoft<sup>12</sup> payroll software that can produce payslips. It was priced in the middle of the market relative to its competitors: one basic software provider cost £56, whilst another we came across was priced at £400, although the features offered with this software far exceeded the

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<sup>11</sup> Paper payslips can be purchased on the High Street, completed by employers and then handed to workers.

requirements to conduct payroll and produce payslips. Annex A provides a table outlining a selection of payroll software providers we researched.

46. Of our 72,196 businesses impacted, we expect 69,658 of them to employ fewer than 20 employees and therefore incur an annual cost of £65, and the remaining 2,537 businesses with 20-49 employees pay an annual subscription of £130. We estimate the cost to the impacted businesses of **payroll software is £4.9 million each year**. As previously mentioned this is based on UK-wide BPE figures, whereas this proposal applies only to Great Britain and so this is expected to be an overestimate. Also there will be some businesses that opt for producing a payslip for their workers by hand, in which case the annual ongoing cost for these businesses would be expected to be lower. By being conservative we seek to capture the search costs that businesses will incur as they seek to look for the best deal on the market. Moreover, when adjusting our 1% of workers who do not receive a payslip assumption, as explained in paragraph 24, we calculate a low estimate of £2.5 million per annum and a high estimate of £9.7 million per annum.
47. We assume each business purchases Moneysoft payroll software that can electronically produce a payslip, therefore we estimate the cost for a member of staff of inputting the statutory information (e.g. hours worked, wage rate) into the payroll software for each worker. We do not have any evidence of the time it takes businesses to produce payslips, since employers would find it difficult to isolate one component of their overall payroll processes. However from some further online research we have some anecdotal evidence of the prices that accountants charge for each component of payroll, which allow us to understand what proportion of overall payroll costs are associated with the production of payslips. It is possible to characterise two distinct components of payroll activity; firstly, the “payroll run” this is the process of compiling information, calculating deductions and provision of information to HMRC. Secondly, the production of payslips for individual employees. Even if an employer is not currently providing payslips, they would necessarily be conducting the “payroll run” to comply with broader taxation and reporting requirements. Typically, accountants charge between £10-£75 for each payroll run, and then £1.50-£4 for each payslip per employee. Taking the midpoint of these figures, a business with six employees incurs a cost of £59<sup>13</sup> each time it conducts payroll and produces payslips. From this we can estimate the proportion of the total cost that goes towards producing a payslip<sup>14</sup>.
48. Separately, an FSB calculation states that it takes a business with six employees half a day (assumed to be 4 hours) to do payroll. This equates to 40 minutes per worker. Applying this to the fraction of the cost that represents a payslip, gives us a time of approximately 11 minutes<sup>15</sup> to produce a payslip for a single worker. Here, we have used cost as an imperfect proxy for time, in light of insufficient evidence of the time it takes to produce a payslip. We sense checked this assumption with the FSB who thought 11 minutes seemed “quite reasonable”, whilst the CIPD thought it would take “10 minutes for each person to collect the data, enter it into an excel spreadsheet, check it and then create a payslip”. However they also noted the time would depend on the complexity of the calculation, for example if certain hours are paid at different wage rates. Moreover given there are likely to be economies of scale associated with payroll, 11 minutes may be a conservative estimate and the time taken for a businesses to produce a payslip for a single worker is likely to decrease as the size of their workforce increases. This is supported by snap polls conducted by CIPP and CIPD which find that it takes less than 10 minutes to produce a payslip for 89% and 77.5% of respondents respectively. The majority of respondents in the CIPD poll (62%) said they can produce a payslip for a single worker in less than five minutes, therefore we judge our 11 minutes assumption to be conservative.
49. To calculate the opportunity cost of producing the payslips we use the median wage of a payroll manager or wage clerk, uplifted by 19.8% for non-wage labour costs, which equals £13.93.
50. How often a firm incurs this ongoing cost will depend on the frequency of which they conduct payroll. The CIPP survey also asked employers which pay frequencies they use and monthly payroll was by far the most common response with 90% of employers saying they use this

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<sup>12</sup> <https://moneysoft.co.uk/prices/>

<sup>13</sup> The midpoint of the cost charged by accountants for doing a payroll run is £42.50, and the midpoint of the cost charged for each payslip is £2.75. A business with 6 employees will pay £16.50 for payslips. The total cost per payroll run for this business is £42.50 + £16.50 = £59.

<sup>14</sup> The cost of producing payslips is £16.50, as a fraction of the total cost of £59 equates to  $\frac{2}{7}$ .

<sup>15</sup>  $\frac{2}{7}$  multiplied by 40 minutes equates to 11 minutes to produce a payslip for a single worker.

frequency, compared to only 21% stating they use weekly. However, the survey was unable to give us the proportion of employees being paid monthly or weekly, given that employers maybe using more than one frequency for different employees in their workforce (this conclusion was drawn by the cumulative frequencies from the survey exceeding 100%). However, since this proposal involves small and micro sized firms and *workers*, we think it is quite likely that many workers are paid more frequently than monthly, for example weekly or fortnightly. Therefore for our best estimate we calculate the cost of the impacted firms conducting payroll fortnightly (i.e. 26 payroll runs over the course of a year) to balance the likelihood that workers are paid weekly, fortnightly, and monthly.

51. Without knowing how often the 1% of workers who do not receive a payslip are paid, our **best estimate of the ongoing cost is £19.6 million per annum**. We expect there to be opportunities for economies of scale for producing payslips for larger affected businesses, therefore once again this is a conservative estimate. Moreover the cost for employers with only one or two employees is going to be negligible as we expect these employers to be the most likely to provide a handwritten payslip. When adjusting our 1% assumption for sensitivity analysis, as explained in paragraph 24, our low estimate falls to £9.8 million per annum (0.5% of workforce), whilst the high estimate is £39.1 million a year (2% of workforce).

### Requiring the number of hours employees are being paid for to be stated on their payslip

#### Employers

52. Of the 12% of employers that do not provide hours on the payslips of employees who are paid according to their time worked, based on our stakeholder engagement, we think most are already inputting the number of hours onto their payroll system. This is because all paid payroll software and most free software calculates gross pay by allowing employers to input the number of hours (unit) and corresponding hourly rate of pay. It is, therefore, reasonable to assume that most employers would use this function (for example inputting 40 hours as the units and an hourly rate of £10), rather than calculating themselves the gross pay and inputting only this figure (i.e. £400). However, there would be a few employers that do not input the number of hours into their payroll software. These employers would now have to input a figure for the number of hours alongside the pay. In order to calculate the gross pay for an employee, employers should have the number of hours that feeds into this calculation. The extra burden would be simply submitting this figure through the payroll system. We estimate that per employee, the additional burden of submitting the hours alongside the pay would be negligible. However, for employers with a large workforce, the burdens could add up. In view of this, we provide an idea of what the ongoing burdens could look like for employers using some conservative estimates.
53. Unlike the one-off costs which are dependent on the number of employers, as the ongoing burden would be submitting the number of hours for an employee, the ongoing costs would depend on the number of employees that each employer would have. However, the distribution of employees across public and private sector employers would be different (i.e. in the public sector there would be a smaller number of large employers employing a larger proportion of total employees in the sector). This means that we cannot simply apply a proportion to calculate the private sector business costs like we would with the one-off costs. In view of this, we separate out the public and private sector ongoing costs (bottom up approach).

#### Private sector employer ongoing costs

54. According to BPE estimates, there are 2.2 million private sector employers. Using the proxy of 12% we estimate that 261,491 employers do not provide hours on their employee's payslip. We do not have any data on the proportion of these employers that do not submit hours through payroll, however, given the reasons above, it is likely that a large majority of these employers are already submitting hours through their payroll software (in order to calculate gross pay) and, therefore, would not incur ongoing costs. As a conservative assumption, we take a mid-point and assume that half (130,746) employers would now have to submit the hours alongside the pay through their payroll system. As 2016 BPE estimates provide a breakdown of the number of employers categorised by the size of their workforce and the number of employees in each of

these categories, we are able to estimate the total number of employees that these employers employ to be 1.4 million<sup>16</sup>.

55. BEIS recently conducted some analysis to estimate that there are 15,215,942 salaried workers, equivalent to 53% of the UK workforce. Some employees may be both timed and salaried; however we do not know what proportion of the workforce this covers. Therefore, we assume all other workers are 'timed' employees, meaning 47% (663,564) of the 1.4 million employees are 'timed' workers. We have not accounted for employees who undertake output/unmeasured work (excluded from this proposal), as we do not know the proportion of these workers, although the numbers are expected to be small. We use a conservative assumption that for every hourly paid employee, it takes half a minute of a payroll manager or wage clerk's time at an hourly rate of £13.93 (uplifted by 19.8% for non-wage labour costs) to now submit the hours figure. As we do not have data on the frequency in which each of these employee is paid (i.e. monthly or weekly), we use fortnightly as our best estimate for payroll frequency. Multiplying the number of employees by the opportunity cost of the time it takes and how often they are paid, we estimate an ongoing cost for private sector employers of **£2 million per annum**.

#### Public sector employer ongoing costs

56. According to BPE estimates, there are 11,538 public sector employers. Using the proxy of 12% we estimate that 1,385 employers do not provide hours on their employee's payslip. We do not have any data on the proportion of these employers that do not submit hours through payroll, however, given the reasons above, it is likely that a large majority of these employers are already submitting hours through their payroll software (in order to calculate gross pay) and, therefore, would not incur ongoing costs. As a conservative assumption, we take a mid-point and assume that half (692) employers would now have to submit the hours alongside the pay through their payroll system. As 2016 BPE estimates provide a breakdown of the number of employers categorised by the size of their workforce and the number of employees in each of these categories, we are able to estimate the total number of employees that these employers employ to be 0.3 million<sup>17</sup>. Using the same assumptions as those used to calculate private sector ongoing costs; we estimate an ongoing cost for public sector employers of **£0.4 million per annum**.
57. Again this is a conservative assumption because in the absence of better data, we have assumed that affected employees are represented evenly across the distribution of firm business size. It is arguable that affected employees that are not currently receiving hours on their payslip are likely to be employed by smaller businesses and, therefore, the larger employers with a greater number of employees will not be required to incur these ongoing burdens.
58. As mentioned above, the increase in transparency can lead to employees identifying a discrepancy with their understanding and, if they are empowered to challenge their employer, could lead to a greater number of higher quality and better informed challenges that the employer has to deal with. However, it should also reduce 'unfounded' challenges, as there is better quality of information to assist employees in calculating their pay. This would also make more effective use of HMRC/ACAS's resources. The net effect this proposal could have on the quantity of challenges that employers would have to deal with is unclear. In view of this, and given the insufficient evidence to support either direction, we have **not been able to monetise the impact**. In any case the impacts would be indirect as they rely on behavioural responses.

#### Payroll bureaus

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<sup>16</sup> The average number of employees per an employer is calculated by dividing the total number of employees in an employer size band by the total number of employers. Multiplying the average number of employees per an employer by the number of employers affected in each size band gives us the total number of employees that do not receive hours on their payslips.

<sup>17</sup> The average number of employees per an employer is calculated by dividing the total number of employees in an employer size band by the total number of employers. Multiplying the average number of employees per an employer by the number of employers affected in each size band gives us the total number of employees that do not receive hours on their payslips.

59. From stakeholder meetings, bureaus highlighted that their systems already have the function to show the number of hours on an employee’s payslip, and this is already common practice where the employer currently provides them with this information. However, they stated that some employers, when sending pay information for their employees, only provide a gross figure without the associated hours. If the employers are now required to submit the associated hours (which they should have to hand as they use it to calculate gross pay), payroll providers would have to input this number alongside the gross pay. These costs have been subsumed in the ongoing employer costs of £2 million (paragraph 55) as these are based on all employees working for employers who do not provide hours on the payslips.

ACAS, HMRC and employment tribunals

60. As the proposal provides more transparency, there could be a higher chance that an employee is likely to identify a discrepancy in the number of hours worked. The employee may raise the issue with their employer at first; however, if the matter is still unresolved, the employee may decide to go through ACAS, HMRC or employment tribunals. Some employees may feel uncomfortable in going to their employer and, therefore, may either go straight to ACAS for advice, fill in a form on the new HMRC NMW complaints system, or raise a case with employment tribunals. This would lead to an increase in the number of higher quality and better informed challenges.

61. The table bellows shows the existing number of cases that ACAS, HMRC and Employment tribunals deal with in relation to pay, per year.

	Number of calls, complaints or cases per year
ACAS	86,870 <sup>18</sup>
HMRC	2,806 <sup>19</sup>
Employment Tribunal	514 <sup>20</sup>

62. Both of these proposals should also reduce ‘unfounded’ challenges, as there is better quality of information to assist employees in calculating their pay. The increase in transparency could mean that employees are clearer about their pay calculations and employers are more likely to get the pay correct the first time. This would mean more effective use of ACAS, HMRC and employment tribunal resource. The net effect this proposal could have on the quantity of challenges that employers would have to deal with is unclear. Given the insufficient evidence to support either direction, we have **not been able to monetise the impact**. In any case the impacts would be indirect as they rely on behavioural responses.

**Benefits**

Employees & workers

Extending the right to workers to receive a payslip

63. Existing employment legislation does not require employers to give workers a payslip. This is one example of where employment rights for workers are less than employees. This proposal will allow workers to derive the same benefits from an itemised pay statement as employees currently do. Specifically, workers will be able to receive all of the elements of section 8 of the ERA:

- Gross amount of wages
- Deductions; e.g. income tax, NICs, pension, student loan contribution
- Net amount of wages
- Method by which different parts of the net amount are paid (if applicable)
- Number of hours paid for (time paid workers only; subject to the other part of this proposal being passed)

<sup>18</sup> Average based on two years

<sup>19</sup> This function only started 6 months ago, therefore, we have extrapolated 6 months’ worth of data to get a yearly estimate.

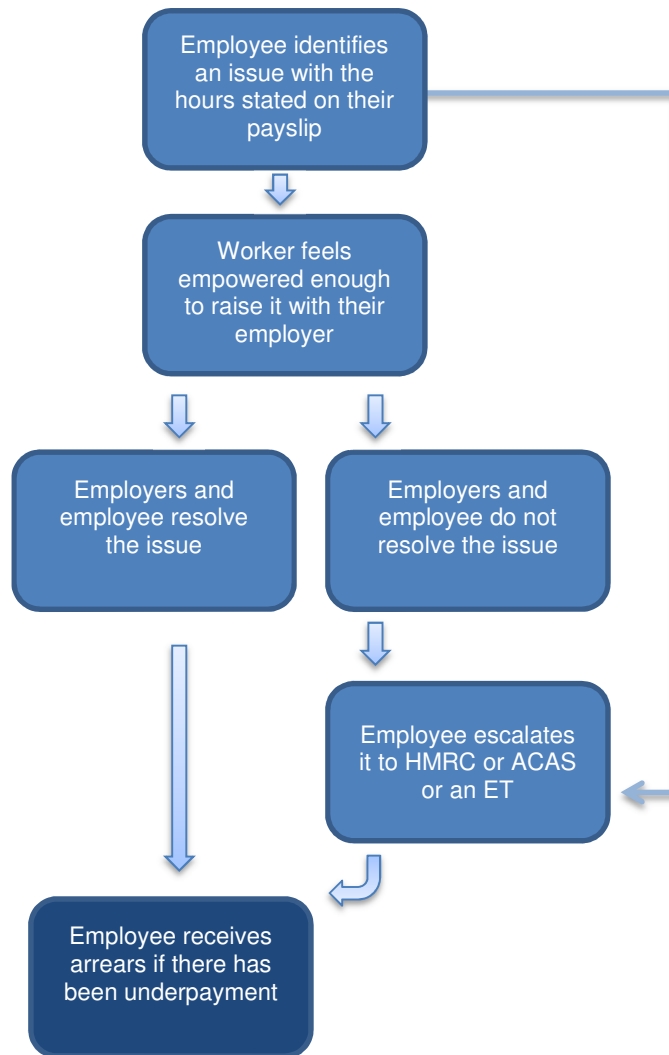
<sup>20</sup> Number of complaints through ET’s in relation to NMW and written pay statements. Figure is a three year average.

64. The benefit for workers of having physical evidence of what they are being paid will increase transparency and should increase their confidence to raise a dispute with their employer if this is not commensurate with what they believe they should be paid. Since some workers are low paid and all workers are legally entitled to the NMW, this could increase the number of cases referred to HMRC, ACAS or an employment tribunal relating to underpayment of the NMW. This may result in compensation for workers and could ultimately lead to reduced non-compliance of the NMW.
65. Given that we cannot anticipate how many workers would feel empowered to challenge their employer or take up a case with the relevant bodies, and how many would actually be found to have been underpaid, we have **not quantified** the potential monetary benefits. In any case, given that the increases in benefits are indirect (as they rely on behavioural responses); we do not think it is proportionate to estimate these benefits.

Requiring the number of hours employees are being paid for to be stated on their payslip

66. Currently, as employers are not obliged to provide any information on how many hours the gross pay relates to, it may not be clear to an employee how many hours they are being paid for. Although some employees may have sufficient knowledge to check whether the gross pay is calculated correctly, many employees, may not have the technical skills to understand how their pay is calculated and, therefore, may assume their gross pay is correct. For both sets of employees, this proposal would provide that level of transparency and allow the employee to see whether the calculated hours are commensurate with their own understanding. If the employee feels the employer has understated the number of hours and, therefore, underpaid them, they would now have written evidence to challenge their employer.
67. There is also the potential for distributional impacts among low paid workers: as these proposals affect time paid employees, if we assume time paid is a proxy for low paid, then correcting underpayment of wages as a result of this proposal will benefit the low paid disproportionately more than higher paid workers. This has benefits in terms of equity and also longer term implications from the possibility of lowering inequality.
68. Below is an illustrative diagram of the logical steps an employee would need to go through in order to receive the correct payment. This part of the proposal would increase the likelihood of an employee or worker identifying an understatement of hours (first step in the chain). It could also empower the employee/worker as they now have evidence to suggest there is an underpayment and, in turn, lead to an employee/worker receiving arrears if there was an underpayment.





69. We expect the number of employees receiving arrears to increase as a result of this proposal. Again, given that we cannot anticipate how many more employees would notice a discrepancy in the hours as a result of the proposal we have **not quantified** the potential monetary benefits. Again, as the increases in benefits are a result of behavioural responses, they are classed as indirect benefits. Over a long period of time (beyond a ten year appraisal), given we anticipate that this proposal would allow more resolution without the need for ACAS and HMRC resource, and given the upfront costs would be distributed over a longer period, we hypothesise these benefits to outweigh the costs of this proposal.

70. The flowchart above is illustrative of the inclusion of hours on payslips but also demonstrates the process a worker would go through from receiving a payslip for the first time.

## Employers

71. Having greater transparency by providing detailed pay related information can reassure employees and workers that employers are paying them for the correct time. Under some circumstances, this could lead to a more motivated and productive workforce for employers in the long term. It can also increase employer's ability to retain employees, as it may remove any negative perception that an employee may have of the employer. This would save them on recruitment and organisational costs.

72. Moreover, there is the possibility that providing payslip to workers, and including hours on payslips, may increase accuracy for employers and provide them with the reassurance that they are paying their staff correctly. This may be particularly beneficial as anecdotal evidence indicates that businesses are keen to ensure they are complying with NMW regulations and to avoid being 'named and shamed' as part of BEIS' naming scheme, whereby employers with more than £100 in NMW arrears are publically named which can harm their reputation. The greater

accuracy from the employer will in turn benefit the worker as they are subsequently paid what they are entitled too.

73. As we cannot predict how many employees and workers would become more productive as a result, to what extent their productivity would improve, nor quantify improved retention; we have **not monetised** the benefits to employees.

ACAS, HMRC and employment tribunals

74. See paragraphs 60-62 explaining why the reduction in the number of 'unfounded' cases is unclear given the insufficient evidence and, therefore, the possible benefits to ACAS, HMRC and employment tribunals cannot be monetised.

## Summary of costs and benefits

### Extending the right to workers to receive a payslip

			Costs (£ million)	Benefits (£ million)
Employers	One-off	Familiarisation	£0.9	-
	Ongoing	Payroll software	£4.9	-
		Admin burden of payroll	£19.6	Non-monetised
Workers			-	Non-monetised
ACAS, HMRC and employment tribunals	Ongoing	Increase in cases	Non-monetised	Non-monetised

### Requiring the number of hours employees are being paid for to be stated on their payslip

			Costs (£ million)	Benefits (£ million)
Employers	One-off	Familiarisation	£12.9	-
		Implementation	£9.3	-
	Ongoing	Inputting of hours	£2.4	Non-monetised
Employees			-	Non-monetised
Bureaus/agents			-	-
Software providers			-	-
ACAS, HMRC and employment tribunals	Ongoing	Increase in cases	Non-monetised	Non-monetised

### Both proposals combined

			Costs (£ million)	Benefits (£ million)
Employers	One-off	Familiarisation	£13.8	-
		Implementation	£9.3	-
	Ongoing	Software	£4.9	-
		Payroll admin	£22.0	Non-monetised
Employees/workers			-	Non-monetised
Bureaus/agents			-	-
Software providers			-	-
ACAS, HMRC and employment tribunals	Ongoing	Increase in cases	Non-monetised	Non-monetised

## Direct costs and benefits to business calculations

75. For providing payslips to workers, we have assumed the cost is borne wholly by the private sector as public sector employers will employ a mixture of both employees and workers and therefore already provide workers with payslips.

76. However for including hours on payslips, according to the 2016 BPE estimates, 99.5% of the employers that we have estimated cost for are private sector employers. Moreover for this part of the proposal we do not have sufficient evidence to suggest that the proportion of employers that currently meet the requirements of this proposal in the public sector is different to the private sector. In view of this, the costs to calculate the one-off costs to private businesses of including hours on payslips, we separate private business costs by applying the 99.5% proportion to total costs as shown in the table below (top down approach). For the ongoing costs, as we have separate costs for public/private sector businesses (bottom up approach) we do not need to apply such proportion.

		Private sector: Payslips to workers (£ million)	Private sector: Including hours (£ million)	Public sector (£ million)	Total
Costs	One-off	£0.9	£22.1	£0.1	£23.1
	Ongoing	£24.4	£2.0	£0.4	£26.9
Benefits	Ongoing	Non-monetised	Non-monetised	Non-monetised	Non-monetised

77. This equates to an **equivalent annual net discounted cost to business (EANDCB)** of **£26.1 million** over a ten year appraisal period. Note this figure is calculated using the latest BEIS Impact Assessment calculator available on GOV.UK, however this expired on the 7<sup>th</sup> October 2017 and a newer version has not yet been made available.

### Sensitivity analysis

78. We believe we have been systematically conservative throughout this impact assessment where the evidence is less robust, and the table above contains our best estimates. However as previously stated in the IA we have undertaken sensitivity analysis around the 1% of workers who do not receive a payslip, by adjusting this to 0.5% and 2%. This creates a range of the number of workers affected of between 145,000 and 580,000, consequently altering the number of impacted employers to around 36,098 – 144,391. This sensitivity analysis has implications for transition costs (creating a range of £22.6 – £23.9 million), as well as ongoing costs (£12.2 – £48.9 million).

## Small and Micro Business Assessment

### Extending the right to workers to receive a payslip

79. Since we have assumed that all workers who do not currently receive a payslip are employed in small and micro businesses (employers with less than 50 employees) – impacting 72,196 employers with fewer than 50 employees, we **do** expect small and micro businesses to be disproportionately affected from this proposal.
80. However the benefits of this legislation are to increase transparency and, indirectly, to reduce NMW/NLW non-compliance; evidence from the LPC<sup>21</sup> indicates that low paid workers are more likely to be underpaid by micro businesses than businesses with 10 or more employees. Therefore, exempting micro businesses from this proposal would eliminate a significant proportion of the benefits that the proposal seeks to achieve. Moreover, the ERA does not exempt smaller employers from the existing payslip requirement for employees. All employers are required to abide by the same regulations with regard to payslips, as with other employment legislation. Any exemption for smaller employers would mean that employees working for these smaller employers would be disadvantaged compared to others. Consequently, given we want to maximise the benefits of the proposal and treat all workers equally, there is **no** justification for making small and micro businesses exempt from this policy proposal.
81. Of course there is the possibility that the assumption that all workers who do not receive a payslip are employed by SAMBA firms is invalid, and that some are employed in medium and large businesses, albeit our discussions with stakeholders suggest this is unlikely as these businesses are likely to also have employees and provide payslips to both. Even so, if this were the case then the burden that falls on small and micro businesses would be less than what we have estimated.

### Requiring the number of hours employees are being paid for to be stated on their payslip

82. According to 2016 BPE estimates, 98% of employers affected by this part of the proposal, would be classified as a small or micro business. The total one-off cost to these employers is estimated to be £32 million and the total ongoing cost is estimated to be £0.9 million per annum. As a proportion, this is equivalent to 93% of total one-off costs and 36% of total ongoing costs, respectively. Therefore the costs do not disproportionately fall on small and micro employers<sup>22</sup>.
83. We considered the case for exempting smaller employers from this requirement. We know that 30% of employees work for these small and micro employers. If 98% of employers were to be exempt and 30% of employees would not benefit, as a proportion, 70% of employees would still benefit. However, in absolute terms, 30% of employees is a significant amount of employers not able to benefit and given that we anticipate that the practice of not putting the number of hours on the payslips is also (if not more) prominent in smaller firms, excluding small and micro businesses would mean smaller employers are still able to provide less transparency to their employees.
84. As stated above in paragraph 80, the ERA does not exempt smaller employers from the existing payslip information; all employers are required to abide by the same regulations for an itemised pay statement. Given the above, we have decided **not to exempt** small or micro businesses from the proposal to provide number of hours on payslips.
85. Consequently we have considered mitigation measures of a transitional period (for both proposals). From our stakeholder meetings, employers noted that it would be too soon to implement the changes in time for April 2018. We have taken this on board and have decided that **all** employers would not need to meet the requirements of the proposals until 2019. For many small employers, their existing service agreement with payroll providers may expire before

<sup>21</sup> Figure 4 in <https://www.gov.uk/government/publications/non-compliance-and-enforcement-of-the-national-minimum-wage-september-2017>

<sup>22</sup> If the cost were to disproportionately fall on small and micro employers then the proportion of total costs would need to exceed 98%, i.e. the proportion of businesses affected by this proposal that we expect to be small and micro sized.

the April 2019 date. This could mean lower costs for them as they would be able negotiate a payslip function as part of their new service agreement, or find another software provider that can provide this service at a lower cost.

86. As another mitigation measure we will provide guidance for businesses to ensure they are ready for when this proposal comes into force in April 2019. The guidance will outline how businesses that are currently not providing payslips to workers can become compliant with this incoming legislation. For example GOV.UK already provides a list of HMRC-recognised payroll providers<sup>23</sup>; we will review this list, to highlight payroll providers that have the option to produce payslips. By providing good information and support tailored to the specific needs of small and micro businesses we will aim to mitigate the disproportionate demands this proposal is expected to place on these employers.

## **Risks and assumptions**

87. We have based our estimated of the impacts on survey results, responses from stakeholder meetings, and online research. One of the key risks of some of our cost estimates are that the stakeholder responses may not representative the whole business population, or that our online research was not exhaustive enough to consider all potential options. To account for this, throughout the impact assessment we have used conservative assumptions to ensure an overestimate of business costs is considered.

## **Wider impacts**

### Statutory equality duties

88. The policy is not expected to give rise to any negative impacts on individuals with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

### Economic impacts

#### *Competition Impact Test:*

89. The regulations are not expected to give rise to any negative impact on competition.

### Environmental Impacts

90. The regulations are not expected to give rise to any environmental impacts.

### Social Impacts

#### *Health and Well-Being:*

91. The regulations are not expected to give rise to any health and well-being impacts.

#### *Human Rights:*

92. The regulations are not expected to give rise to any human rights impacts.

#### *Justice System:*

93. Employees or workers of employers who do not comply with the regulations in this impact assessment, (i.e. they do not provide a payslip to a worker, or do not record a number for the hours paid for on the payslip of employees/workers) can bring a case against their employer to an employment tribunal. The net effect this proposal could have on the number of challenges

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<sup>23</sup> <https://www.gov.uk/payroll-software>

taken to employment tribunals is unclear. However, provision of extra information should increase the number of well-founded, evidence-based challenges. In addition, due to the employees being more informed, it should reduce the number of 'unfounded' cases. Given the insufficient evidence to support either direction, we have not been able to monetise the impact. In any case the impacts would be indirect as they rely on behavioural responses.

*Rural proofing:*

94. The regulations are not expected to give rise to any differential impact for rural areas.

*Sustainable Development:*

95. The regulations are not expected to give rise to any sustainable development impact.

*Family Test:*

96. The regulations outlined in this Impact Assessment do not give rise to any direct or indirect impacts for families relating to any of the above questions.

Implementation plan

97. It is anticipated that the regulations will be laid in Parliament in December 2017 and come into force in April 2019 to give employers time to prepare for implementation and to tie in with the National Minimum Wage / National Living Wage uprating.

## Annex A: Table of costs of “off the shelf” payroll software

Note this table is not exhaustive and originates from a Google rapid research, rather than a systematic search of all the payroll options available.

Software Provider	Annual Cost
Moneysoft <a href="https://moneysoft.co.uk/prices/">https://moneysoft.co.uk/prices/</a>	£65 for up to 20 employees £130 for up to 100 employees
Sage <a href="http://www.sage.com/Payroll/Software">www.sage.com/Payroll/Software</a>	£72 for up to 25 employees
BrightPay <a href="https://www.brightpay.co.uk/pricing/">https://www.brightpay.co.uk/pricing/</a>	£99 unlimited employees
IRIS <a href="https://www.iris.co.uk/store/iris-payroll-business.html">https://www.iris.co.uk/store/iris-payroll-business.html</a>	£399 for up to 25 employees
12Pay <a href="http://www.12pay.co.uk/">http://www.12pay.co.uk/</a>	£56 unlimited employees
KashFlow <a href="http://www.kashflow.com/payroll/">www.kashflow.com/payroll/</a>	£72 for unlimited employees
Andica <a href="http://www.business-software-online.co.uk/acatalog/Andica_Payroll.html">http://www.business-software-online.co.uk/acatalog/Andica_Payroll.html</a>	£79 up to 10 employees £109 up to 25 employees
Reckon <a href="https://www.reckon.com/uk/pricing/">https://www.reckon.com/uk/pricing/</a>	£60 unlimited employees

## Annex B: Venn diagram illustrating distinction between employees and workers

(Not drawn to scale).

