Institute of Directors

116 Pall Mall

London

SW1Y 5ED

14/08/2026

Department for Business, Innovation, Science and Trade

Old Admiralty Building

Admiralty Place

London

SW1A 2DY

IoD response to Make Work Pay: Ending one-sided flexibility: reforms of zero hours and similar contracts

About the IoD

The IoD is an independent, non-party political organisation representing 20,000 company directors, senior business leaders, and entrepreneurs. It is the UK's longest-running organisation for professional leaders, having been founded in 1903 and incorporated by Royal Charter in 1906. Its aim is to promote good governance and ensure high levels of skills and integrity among directors of organisations. It campaigns on issues of importance to its members and to the wider business community with the aim of fostering a climate favourable to entrepreneurial activity in the UK.

The IoD welcomes the opportunity to respond to this consultation on reform of zero hours and similar contracts Making the Employment Rights Act as workable for employers as possible is of considerable interest to the IoD and its membership, and we are therefore pleased to present our views.

Part 1: Guaranteed Hours

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

8 hours per week.

Q1.b: Please explain your answer.

An hours threshold of 8 hours or fewer would be consistent with the aim of the policy while minimising negative impacts on economic growth and job creation.

An IoD survey of 555 business leaders in July 2026 found that, of the 8 in 10 who selected an answer, 150 (34%) believed that the hours threshold should sit at 8 hours or fewer, considerably more than any other option (Figure 1).

Figure 1: IoD Policy Voice results, July 2026 (555 responses)

What do you think the hours threshold should be?

8 hours per week or fewer	27.21%
12 hours per week or fewer	5.77%
16 hours per week or fewer	11.71%
20 hours per week or fewer	8.65%
24 hours per week or fewer	3.60%
28 hours per week or fewer	0.72%
32 hours per week or fewer	1.26%
36 hours per week or fewer	1.98%
40 hours per week or fewer	2.52%
44 hours per week or fewer	0.18%
48 hours per week or fewer	0.18%
Other	14.95%
Don't know	21.26%

Setting the threshold at 8 hours or fewer would be significantly more workable for employers than the other options, particularly 16 hours and above. This is due not only to the fact that employers would be required to undertake the significant administration required to prove compliance for fewer employees, but because contracts guaranteeing, for example, 8 hours would be much more manageable from a resource planning perspective. If the hours threshold is set at a reasonable level, it is conceivable that many employers would be able to guarantee that level of hours and, through careful resource planning, deploy workers on different kinds of work even when demand is lower. The likelihood of such an approach being possible would decrease significantly as the hours threshold increased.

A threshold of 8 hours or fewer would also go some way to protecting flexible working arrangements, particularly part-time work. Given that the average number of hours worked by part-time workers per

week in the UK is 16.7[1], a threshold at the higher end of the government's preferred range risks extending the regime beyond those workers experiencing the greatest degree of insecurity and into a substantial proportion of part-time employment arrangements. The result would be employers offering fewer people part-time work, with negative implications for the availability of the type of flexible working needed to support more individuals – such as parents and caregivers – into the labour market.

The government's assumption that retaining zero and low hours contracts as a legal option will allow workers who want such arrangements to continue accessing them reflects a poor understanding of how employers make recruitment decisions. In addition to the significant bureaucracy necessarily entailed in tracking, calculating, and making guaranteed hours offers, every zero and low hours arrangement will represent a significant risk of higher cost for employers. The fact that an employee could suddenly decide to take up a guaranteed hours offer will change the risk profile of such contracts for employers; as a result, fewer employers will offer them. The theoretical ability of workers to continue on flexible zero and low hours contracts will mean little if employers offer far fewer of them.

> "One zero-hours employee is a retiree looking for extra pocket money. If we have a surge of work, we would negotiate with him the number of hours/days to be worked, and then at the end of the year calculate annual leave payments based on hours-worked accrual. We're now considering dropping the contract [due to these reforms]." – 100-249 employees, Manufacturing, North West England

An 8-hour threshold would therefore strike an appropriate balance between improving security for workers with very low guaranteed hours and preserving the availability of flexible working arrangements that benefit both employers and workers.

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

As described above, higher hour thresholds would make part-time contracts – where the number of guaranteed hours sits below the threshold – less attractive for employers to offer. Even where a part-time worker does not work additional hours and so would not receive a higher guaranteed hours offer, the increased bureaucratic burden resulting from ensuring compliance, and the higher wider legal risk of all such contracts, would make employers less likely to offer them.

Furthermore, the higher the hours threshold is set, the more likely employers would be to respond by spreading available hours across a larger pool of workers, limiting the allocation of additional hours above contractual guarantees, or reducing opportunities for voluntary overtime in order to manage the risk of triggering guaranteed-hours obligations.

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

---

[1] Office for National Statistics, *Average actual weekly hours of work for part-time workers (seasonally adjusted)*, time series YBVB, available at: https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/timeseries/ybvb (accessed 13 August 2026).

Higher hours thresholds would adversely affect the availability of additional hours for workers. Employers are likely to be cautious about offering opportunities for additional hours on a regular basis to any worker within scope of the guaranteed hours regime, due to the risk of triggering an obligation to make a guaranteed hours offer.

A higher threshold could therefore have the unintended consequence of reducing opportunities for workers who value flexibility and wish to increase or decrease their working hours on an ad hoc basis. Employers may be less willing to offer additional shifts if those shifts create ongoing contractual obligations that do not reflect future business need.

Furthermore, workers who wish to remain on flexible arrangements may receive fewer opportunities for additional hours if employers prioritise allocating available work to employees who already have guaranteed hours contracts in order to meet their contractual obligations.

Setting the threshold at 8 hours would therefore minimise the distortionary impacts of the policy and go some way to protecting the availability of additional hours for workers who want them.

Q2.a: Agency workers should not be entitled to guaranteed hours offers when:

They already have a contract guaranteeing hours above the threshold (for example, by their agency) regardless of which hirer these hours are to be worked for.

Q2.b: Please explain your answer.

Given that the purpose of the guaranteed hours policy is to identify workers who lack a baseline level of certainty and predictability, agency workers who already benefit from guaranteed hours above the threshold should be out of scope because the policy objective has already been met. Requiring hirers to make additional guaranteed hours offers in these circumstances would create unnecessary complexity and could discourage the use of agency labour without materially increasing worker security.

Such an approach would also have the benefit of giving agencies a more realistic opportunity to retain the contractual nexus between them and the agency worker, thus preserving the availability of agency workers, who play a vital role in meeting short-term demand for labour across the economy. Agencies by definition have many end users and so are likely to be able to manage demand for their workers.

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

8 hours per week.

Q3.b: Please explain your answer.

As described in our answer to Q1.b, setting the hours threshold at 8 hours would go some way to minimising the damage done by this policy to economic growth and job creation.

Furthermore, as a general principle, the hours threshold should be the same for agency workers and directly engaged workers. A single threshold would provide clarity, consistency, and easier administration.

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

52 weeks.

Q4.b: Please explain your answer.

A 52-week reference period is by far the most effective means of implementing a guaranteed hours regime which properly accounts for seasonal variations in demand. A fair guaranteed hours offer must be based on a realistic view of what the underlying business need is, something which a 12-week reference period cannot provide.

> "This is going to cause so many issues in many of the response and transport fulfilment sectors as demands can ebb and flow daily and weekly, some areas are very unpredictable" – 2-9 employees, Professional, scientific and technical activities, East Midlands

> "We use people on zero hours as we get containers coming in that need to be unloaded. Some weeks we have three, others none. We have a pool of people of people and those free come and help us. These regulations are stopping us expanding and means we have to increase prices" – 2-9 employees, Wholesale and retail trade (including motor repair), South West England

> "We are an SME in the research/testing industry. Much of our income is testing new products against HMG guidelines. We have to respond in quick time, and employ a small network of retired staff who are willing to respond at short notice. They don't want to be 'employed' anymore, but enjoy the work, socializing and camaraderie we provide." – 10-49 employees, Professional, scientific and technical activities, East Midlands

A 12-week reference period risks employers being required to offer guaranteed hours contracts based on seasonal peaks in demand which rapidly become untenable, such as employers in the tourism industry after the summer peak. A 52-week reference period, on the other hand, would account for most peaks and troughs in demand and inhibit the ability of both employers and employees to 'game' the system with regards to the timing of the reference period.

The consultation's argument that the new regime will create strong incentives for employers to better forecast their future needs ignores the reality that in many sectors, demand simply cannot be accurately forecasted:

> "These changes are going to be very costly and challenging to implement for domiciliary care providers who frequently have clients passing away, entering and exiting hospitals, etc. Caring for vulnerable people is a very dynamic service to operate and requires proper funding to support the proposed changes." – 100-249 employees, Human health and social work activities, East of England

While this speaks to a fundamental flaw in the design of the overarching policy – as there is no length of reference period which would entirely account for such fluctuations in demand – the longer the reference period, the better it will account for random peaks and troughs in demand.

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

52 weeks.

Q5.b: Please explain your answer.

As with the hours threshold, there is a strong case for consistency between the reference periods for directly engaged and agency workers, in order to provide clarity, consistency and ease of administration for employers.

If, however, the reference period for directly employed workers is set at a length shorter than 52 weeks, then it would be sensible to create divergence in setting the reference period for agency workers at 52 weeks. While the case for a 52-week reference period is strong for both groups of workers, it is particularly strong for agency workers on account of the fact that they are by nature temporary and more affected by seasonal fluctuations in demand.

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

52 weeks.

Q6.b: Please explain your answer.

The initial and subsequent reference periods should both be set at 52 weeks because that length is the by far the most effect way to account for seasonal variations in demand.

While a 52-week subsequent reference period would be preferable to a 12-week subsequent reference period because of the reduced administrative burden involved, it is important to note that it would not solve for the flaws in the design of the initial reference period with regards to managing demand.

Given that there will be no provision to adjust guaranteed hours contracts down based on falls in demand, a longer subsequent reference period would be of no use to an employer forced to make an offer of guaranteed hours based on a short reference period which happened to fall over a period of high demand.

If government proceeds with a 12-week initial reference period then, regardless of the length of the subsequent reference period, there should be provisions for employers to revise the offer based on significant alterations in demand:

> "There should be an automatic review period to allow reflection of business change or seasonality." – 0-1 employees, Telecommunication, computer programming, consulting, computing infrastructure and other information service activities, South West England

If there remain no provisions for employers to revise the guaranteed hours offer, then the most effective way to ensure that guaranteed hours contracts reflect a realistic assessment of underlying business need is for both the initial and subsequent reference periods to be set at 52 weeks.

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

Yes.

Q7.b: Please explain your answer.

A gap between reference periods would neither meaningfully reduce the administrative burden on employers, nor help to better account for fluctuating demand. Employers with workers in scope of the regime will need systems in place to record hours worked and assess eligibility regardless of whether reference periods are continuous or separated by a gap.

Nor would a gap necessarily improve the operation of the regime for employers experiencing seasonal or fluctuating demand. Unless the timing of any gap happened to align with an employer's business cycle, it would simply operate as an arbitrary pause in the calculation process rather than providing a more accurate reflection of underlying labour demand. A worker's entitlement would depend on the timing of the gap rather than their actual working pattern.

Introducing gaps between reference periods may also add unnecessary complexity and could create uncertainty for both employers and workers as to when hours are being assessed for the purposes of future guaranteed hours offers. A system in which each reference period begins immediately after the previous one finishes would be simpler, more transparent, and easier to administer. The more important consideration is the length of the reference period itself, which should be sufficient to capture typical working patterns and seasonal fluctuations in demand.

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

52 weeks.

Q8.b: Please explain your answer.

As with the hours threshold and initial reference period, there is a strong case for consistency between the subsequent reference periods for directly engaged and agency workers, in order to provide clarity, consistency, and ease of administration for employers.

The case for divergence between directly employed and agency workers is even weaker in the case of subsequent reference periods since, as discussed in our response to Q6.b, they will not provide a mechanism for employers to update guaranteed hours contracts based on changes in demand.

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

Yes.

Q9.b: Please explain your answer.

As discussed in our answer to Q7.b, a gap between reference periods would neither meaningfully reduce the administrative burden on employers, nor help to better account for fluctuating demand.

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

Option B: A weekly distribution requirement AND a total hours requirement.

Q10.b: Please explain your answer.

Option B is preferable because it more effectively targets the right to guaranteed hours at workers whose actual working arrangements demonstrate a sustained and significant divergence from their contractual hours.

A weekly distribution requirement alone risks capturing workers who have worked only a relatively small number of additional hours over a given period of time, including workers who have picked up occasional overtime, covered short-term absences, or responded to temporary increases in demand. Requiring both a distribution requirement and a total-hours threshold would provide a more reliable

indication that the worker's contractual arrangements no longer reflect the reality of the hours they are regularly working.

Option B would therefore help ensure that the right is focused on workers experiencing genuine one-sided flexibility, rather than workers who occasionally work additional hours by choice or in response to short-term business needs. This would reduce the risk of employers becoming reluctant to offer voluntary overtime or additional shifts, preserving flexibility for both employers and workers.

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

10 calendar weeks across a 12-week initial reference period.

Q11.b: Please explain your answer.

The regularity requirement should ensure that guaranteed hours offers are targeted at workers whose actual working patterns demonstrate a sustained and ongoing need for work from the employer. A threshold of 10 weeks strikes an appropriate balance by focusing on workers who have worked regularly throughout most of the reference period, while avoiding the risk that occasional work or short-term fluctuations in demand trigger entitlement.

By contrast, lower thresholds would capture workers with relatively intermittent patterns of additional hours, which would discourage employers from offering the kind of ad-hoc overtime which can be highly beneficial to both sides.

Q12.a: If there were to be a weekly distribution requirement AND a total hours requirement (as in Option B), what should the total hours requirement be for a directly engaged worker?

96 hours (in excess of contracted hours) across a 12-week initial reference period.

Q12.b: Please explain your answer.

The total-hours requirement should be set at a level that clearly distinguishes workers who are regularly and significantly working beyond their contractual hours from those who occasionally undertake additional shifts, voluntary overtime, seasonal work, or short-term increases in demand.

A lower threshold risks capturing workers whose additional hours arise from temporary business needs rather than an ongoing requirement for increased guaranteed hours. This may discourage employers from offering overtime and additional shifts, reducing opportunities for workers who value flexibility and wish to increase their hours on an ad hoc basis.

A threshold of 96 hours provides stronger evidence that a worker's actual working pattern differs materially from their contractual arrangements. It would also help to better reflect fluctuations in demand and seasonal peaks in guaranteed hours offers.

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

Yes, the regularity requirements should scale in the event of longer subsequent reference periods.

Q13.b: Please explain your answer.

If the regularity requirements do not scale in the event of longer subsequent reference periods, workers could qualify for guaranteed hours offers despite having a less regular pattern of work than would be required during the initial reference period. This would undermine the purpose of the regularity requirement, that is, to identify workers whose working patterns demonstrate a sustained and ongoing requirement for work.

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

Option B: A weekly distribution requirement AND a total hours requirement.

Q14.b: Please explain your answer.

As discussed in our answer to Q10.b, Option B is preferable because it more effectively targets the right to guaranteed hours at workers whose actual working arrangements demonstrate a sustained and significant divergence from their contractual hours.

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

10 calendar weeks across a 12-week initial reference period.

Q15.b: Please explain your answer.

As discussed in our answer to Q11.b, a threshold of 10 weeks strikes an appropriate balance by focusing on workers who have worked regularly throughout most of the reference period, while avoiding the risk that occasional work or short-term fluctuations in demand trigger entitlement.

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

96 hours (in excess of contracted hours) across a 12-week initial reference period.

Q16.b: Please explain your answer

As discussed in our answer to Q12.b, a threshold of 96 hours would provide evidence that a worker's actual working pattern differs materially from their contractual arrangements. It would also help to better reflect fluctuations in demand and seasonal peaks in guaranteed hours offers.

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

Yes, the regularity requirements should scale in the event of longer subsequent reference periods.

Q17.b: Please explain your answer.

As discussed in our answer to Q13.b, if the regularity requirements do not scale in the event of longer subsequent reference periods, workers could qualify for guaranteed hours offers despite having a less regular pattern of work than would be required during the initial reference period. This would undermine the purpose of the regularity requirement, that is, to identify workers – including agency workers – whose working patterns demonstrate a sustained and ongoing requirement for work.

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

Yes, there are examples of temporary need that are not related to a specific task or event – and would need to be addressed through regulations.

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

It is essential that the regulations recognise that employers experience peaks and troughs in demand and provides them with a means of responding to those fluctuations.

Drawing up an exhaustive list of examples of temporary need not related to a specific task or event is not possible. The task is complicated by the fact that the distinction between a "task", an "event", and a "temporary need" is not always clear in practice; it is unclear, for example, whether a six-month project would be a task or temporary need.

Regulations should therefore provide clear and non-exhaustive examples to give employers more certainty when deciding whether a limited-term contract is permissible. Examples might include:

- Seasonal fluctuations in demand – Employers in sectors such as hospitality, retail, tourism, and leisure frequently require additional staff during predictable seasonal peaks, such as the Christmas period, summer tourist season, or school holidays. These arrangements may last for several months and are driven by higher demand rather than a specific task or event.
- Temporary increases in customer demand – Employers may experience periods of unusually high demand due to market conditions, large customer orders, promotional activity or contract wins. While the increase in demand may be expected to subside, it may not be attributable to a discrete task or event. Employers should be able to engage workers on a temporary basis where there is a reasonable expectation that demand will subsequently return to normal levels.
- Covering periods of prolonged absence – Employers may require additional workers to cover maternity leave, adoption leave, long-term sickness absence, secondments, or other extended periods of employee absence. While the need is temporary, it is not always linked to a specific task or event in the sense described in the consultation.
- Volatile or weather-dependent demand – Employers in sectors such as agriculture, tourism, hospitality, and construction may experience temporary increases in staffing requirements driven by weather conditions or other external factors. These fluctuations often cannot be linked to a single task or event but nevertheless represent genuine temporary need.

The definition of temporary need set out in regulations should therefore be sufficiently broad to accommodate circumstances where an employer can reasonably demonstrate that the requirement for additional labour is temporary in nature.

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

Median average.

Q19.b: Please explain your answer.

A median average is more likely to reflect a worker's typical working pattern and would be less affected by temporary peaks or troughs in demand. This is particularly important in sectors with regularly fluctuating demand, where a mean average could be skewed by unusually busy periods. Using the median would help ensure that guaranteed hours offers are based on regular working patterns rather than short-term increases in labour demand.

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

Yes, they should have the flexibility to determine the time period.

Q20.b: Please explain your answer.

Giving employers the flexibility to determine the period over which the hours will be allocated would better enable them to align guaranteed hours arrangements with existing workforce planning and payroll processes. Different sectors and business models operate on varying scheduling cycles, meaning that a single prescribed period would not reflect operational realities for all employers.

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

A week; A month; Other.

Q20.d: Please explain your answer.

Employers should be given as much flexibility as possible to choose the allocation period which best reflects their operational requirements and workforce arrangements, given that different businesses schedule work over different timeframes.

Weekly and monthly allocation periods should both be available, as these are the most common periods used for workforce planning and payroll purposes. Employers should also be able to use alternative allocation periods where appropriate, provided the total number of guaranteed hours is maintained and clearly communicated to workers.

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

A month.

Q21.b: Please explain your answer.

Employers should be able to choose the allocation period. If the government were to mandate a single period, a monthly period would provide the greatest operational flexibility for employers while still ensuring workers receive their guaranteed hours within a defined timeframe.

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

Yes, the margin should be a percentage of the hours generated by the calculation.

Q22.b: Please explain your answer.

A percentage-based adjustment margin would provide employers with a degree of proportionate flexibility when making guaranteed-hours offers.

In particular, it would help employers accommodate minor calculation discrepancies, rounding issues, and existing shift patterns without creating unnecessary administrative complexity.

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

Median average.

Q23.b: Please explain your answer.

Using a median average would help ensure that guaranteed hours offers are based on regular working patterns rather than atypical periods of high demand. This is more likely to result in sustainable guaranteed hours offers that reflect the reality of the worker's ongoing relationship with the hirer.

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

Yes, they should have the flexibility to determine the time period.

Q24.b: Please explain your answer.

As discussed in our answer to Q20.a, giving employers the flexibility to determine the period over which the hours will be allocated would better enable them to align guaranteed hours arrangements with existing workforce planning and payroll processes.

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

A week; A month; Other.

Q24.d: Please explain your answer.

As discussed in our response to Q20.c, employers should be given as much flexibility as possible to choose the allocation period which best reflects their operational requirements and workforce arrangements, given that different businesses schedule work over different timeframes.

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

A month.

Q24.f: Please explain your answer.

As discussed in our response to Q21.b, employers should be able to choose the allocation period. However, if the government were to mandate a single period, a monthly period would provide the greatest operational flexibility for hirers while still ensuring workers receive their guaranteed hours within a defined timeframe.

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

Yes, the margin should be a percentage of the hours generated by the calculation.

Q25.b: Please explain your answer.

As discussed in our response to Q22.b, a percentage-based adjustment margin would provide employers with a degree of proportionate flexibility when making guaranteed-hours offers.

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

Yes, there should be certain types of workers excluded.

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

The right should be targeted at workers experiencing genuine one-sided flexibility and should not capture arrangements where both parties value flexibility or where the work is inherently temporary in nature.

Examples of workers who should be excluded include:

- Workers engaged solely to meet temporary or seasonal demand, where there is a clear and genuine expectation that the requirement for labour will cease after a defined period.
- Workers who have expressly opted for highly flexible working arrangements, such as some students, retirees and individuals with caring responsibilities, who may value flexibility over guaranteed hours.

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

Yes, there are certain specific circumstances in which employers should be exempt.

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

Employers should be exempt from the duty to make guaranteed hours offers in certain clearly defined circumstances where there is a genuine temporary need for labour and where ongoing guaranteed hours would not reflect the underlying demand for work.

Examples include, but are not limited to:

- Periods of seasonal demand, such as peak trading periods in retail, hospitality, and tourism.
- Cover for maternity leave, adoption leave, long-term sickness absence, or other temporary employee absences.
- Circumstances where demand is highly dependent on factors outside the employer's control, such as weather conditions, customer bookings, or supply-chain disruption.

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

There is significant support within the business community for reform of zero and low hours contracts. An IoD survey of over 800 business leaders in February 2024 found that half (49%) of business leaders believe that, while zero hours contracts can play a valid role in the labour market, they need significant reform in order to improve employee protection (Figure 2).

Figure 2: IoD Policy Voice results, February 2024 (866 responses)

Unlike a traditional contract of employment, zero-hours contracts offer no guarantee of minimum working hours. What is your view regarding zero-hours contracts?

Zero-hours contracts can play a valid role in the labour market but need significant reform in order to safeguard the interests of employees.	48.5%
Zero-hours contracts do not play a valid role in the labour market and should be prohibited.	14.1%
Zero-hours contracts in their current form play a valid role in the labour market and do not need significant reform.	31.8%
Don't know.	5.7%

However, the reforms of zero and low hours contracts included in the Employment Rights Act, and the proposals in this consultation relating to the relevant regulations, go far beyond 'significant reform'. If adopted, they will make such contracts so administratively burdensome and legally risky that many employers are likely to conclude that offering them, even to employees who want them, is untenable. Most employers in such a scenario would not respond by converting all zero and low hours contracts into guaranteed hours contracts; instead of being forced to offer contracts reflecting demand they cannot guarantee, many would look to alternative ways of meeting that demand, such as outsourcing and automation.

> "The new regulations don't seem to consider the hospitality industry who rely on having flexible workers to meet the ever-changing needs and demands of the business and customers. Our employees that work on a casual basis also do so as it suits their lives such as fitting in with studies or other commitments… These reforms are forcing us to look at technology and ways we can run leaner as an organisation and therefore likely to result in less employment." – 100-249 employees, Arts, sports and recreation, South West England

At their core, these proposals undermine flexible working. The fact that zero and low hours contracts are not being outlawed will not ensure that they will still be available to workers who want them because fewer employers will offer them. At the same time, the case for intervention is weak. ONS data published in May 2026 showed that only 17% of zero hours workers wanted more hours in their

current job[2]; the population of workers engaged on such contracts is highly diverse and many choose to use them as the most suitable form of labour market participation for their circumstances. The flaw underlying the design of these reforms is that they proceed from the premise that such contracts are inherently problematic, rather than as a key tool in embedding flexible working which may need some regulation to curb abuse by a small minority of employers:

> "There is an assumption that these contracts are not in the interests of the employee. I've used low and zero hours contracts and have found the employee really wants the flexibility to work or not work, it's genuinely mutual. The gov should find a different way to stop rogue employers exploiting staff and gaming the system" – 2-9 employees, Other services, South East England

More widely, the significant costs and bureaucracy which these will reforms will impose on employers run counter to the government's pledge to reduce the regulatory burden on business. If the government is serious about reducing business bureaucracy, as well as preserving flexible working options and tackling youth unemployment, it must implement the right to guaranteed hours in such a way as to minimise bureaucracy and focus it in the most genuinely precarious employment relationships:

> "The Government talk about growth but keep adding costs and removing flexibility. Then wonder why inflation is an issue and businesses are closing." – 250+ employees, Accommodation and food services, South East England

> "Further regulatory burden that does not allow businesses to flex their staffing as required. This comes on top of the punitive increase in employers NI, and various other changes making it more costly and burdensome to hire staff" – 2-9 employees, Administrative and support services, South East England

On a more specific note, regulations should clarify that acceptance of a guaranteed hours offer by an agency worker results in a new direct engagement with the hirer and does not require the hirer to match the worker's previous agency rate of pay. The terms of the new contract, including pay, should be capable of being determined by the hirer in accordance with its normal pay structures and applicable legal requirements. Without this clarity, hirers may be forced to hire agency workers on terms which do not reflect the fact that the hirer is no longer accessing flexible working arrangements.

[2] Office for National Statistics, EMP17: People in employment on zero hours contracts, available at: https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/emp17peopleinemploymentonzerohourscontracts (accessed 12/08/2026).

PART 2: Reasonable notice of shifts and payment for shifts cancelled, moved or curtailed at short notice

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

8 hours per week.

Q34.b: Please explain your answer.

An 8-hour threshold strikes an appropriate balance between ensuring that workers with a meaningful ongoing relationship with an employer benefit from greater predictability, while avoiding the extension of these rights to occasional or genuinely ad hoc work.

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

They already have a contract guaranteeing hours above the threshold (for example, by their agency) regardless of which hirer those hours are to be worked for.

Q35.b: Please explain your answer.

The purpose of the threshold should be to identify workers who lack a baseline level of certainty and predictability. Where an agency worker already benefits from guaranteed hours above the threshold, they already have a degree of income security that these rights are intended to support and so should be outside of the scope of these rights.

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

8 hours per week.

Q36.b: Please explain your answer.

Using the same threshold for agency and directly engaged workers would promote consistency, reduce complexity, and make the framework easier for agencies, hirers and workers to understand and administer.

An 8-hour threshold strikes an appropriate balance between extending protections to workers with a meaningful ongoing working relationship and excluding genuinely ad hoc or occasional assignments.

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

1 week.

Q37.b: Please explain your answer.

1 week is the maximum period that should be presumed reasonable. Any longer period would significantly reduce employers' ability to respond to changes in demand and operational requirements.

An IoD survey of 555 business leaders in July 2026 found that over a third (36%) of respondents favoured a 1-week notice period: the most popular option of those available in the consultation (Figure 3).

Figure 3: IoD Policy Voice results, July 2026 (555 responses)

How much notice of shifts and changes to shifts should be presumed reasonable?

1 week	36.22%
2 weeks	25.23%
3 weeks	2.52%
4 weeks	11.89%
Other	10.99%
Don't know	13.15%

Even a 1-week notice period would create a disincentive for employers to offer additional shifts. While the regulations may allow shorter periods of notice to be considered reasonable in particular circumstances, employers are likely to take a cautious approach where there is uncertainty around potential liability. This would result in fewer opportunities for workers to take on additional hours, particularly where shifts become available at short notice due to customer demand, staff absence, or other unforeseen circumstances.

Many businesses cannot accurately forecast staffing requirements more than a week in advance. Equally, some workers value the ability to accept work flexibly and may not know their availability a week or more ahead of time. A longer notice period would therefore risk constraining the flexibility that many workers and employers value.

The regulation should be designed in such a way that encourages employers to offer work wherever possible. If the legal and financial risks associated with offering shifts at short notice become too great, many employers will respond by offering fewer additional shifts, reducing opportunities for workers to increase their earnings and limiting businesses' ability to respond to peaks and troughs in demand.

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

There should be no circumstances in which a notice period longer than one week is required. A one-week presumed notice period already represents a significant disincentive for employers to offer additional work to employees; specifying circumstances in which more notice would be required would add further complexity and risk for employers offering shifts to workers.

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

The legislation should recognise that flexibility can benefit both employers and workers. Many workers value the opportunity to take on additional hours at short notice, particularly where their availability varies from week to week. A framework that treats short-notice shift offers as inherently problematic risks reducing opportunities for workers to increase their earnings and limiting employers' ability to respond to changing business needs.

Research with IoD members found that the mostly commonly cited circumstance in which shorter notice should be acceptable related to personnel availability issues outside of an employer's control:

> "As we supply workers where others have not turned up, are sick or have accidents we need to be able to offer virtually no notice of work becoming available" – 10-49 employees, Financial and insurance activities, London

Several members expressed frustration at the one-sided nature of these reforms:

> "Notice should be reciprocal - banked hours staff etc need [to] give notice if they are not going to turn up for a shift to allow employers to give notice to other staff to be able to cover" — 2-9 employees, Financial and insurance activities, East of England

> "The reality is that it's rare for a shift to be cancelled by the employer due to the shortage of staff to work in the first place. However, due to staffing shortages, it is not unusual for staff to not turn up for a shift or provide minimal notice to the employer that they will not be working that day - they are not particularly concerned about the impact of the business or their colleagues and know that the shortage of staff in rural Scotland means that their employment is unlikely to be affected." – 10-49 employees, Financial and insurance activities, Scotland

> "The Government should also take into consideration the abuse by employees who fail to show up for shifts with no notice"— 100-249 employees, Manufacturing, East Midlands

Other, non-exhaustive examples of where shorter notice may be appropriate include weather-dependent operations and short-notice opportunities to take on additional work.

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

1 day.

Q44.b: Please explain your answer.

A 1-day short notice period captures the genuinely disruptive, last-minute changes the policy is aimed at, without imposing a payment on the ordinary scheduling adjustments that many businesses have to make within a normal working week.

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

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

Q45.b: Please explain your answer.

Creating a two-tier approach to short-notice timeframes would add unnecessary complexity to the regime without providing clear additional benefits. A single short notice period would be simpler for employers and workers to understand, easier to administer, and less likely to give rise to disputes about which threshold applies in a particular circumstance.

Q48.a: The short notice payment should be:

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

Q48.b: Please explain your answer.

Calculating the short notice payment based on what the worker would have earned is the more straightforward, transparent and easy method of the two options for employers and workers to understand.

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

10%.

Q49.b: Please explain your answer.

The purpose of the payment should be to recognise the inconvenience caused by a short-notice cancellation, movement, or curtailment of a shift, rather than to replace the earnings that would have been received had the shift been worked.

A 10% payment strikes a proportionate balance between recognising the disruption caused to workers and preserving employers' ability to respond to changing operational circumstances. It also helps to maintain the distinction between a compensatory payment and normal wages.

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

30%.

Q50.b: Please explain your answer.

If the National Living/Minimum Wage rate is used for calculating short notice payments, it would be appropriate for the percentage threshold to be higher. It would remain vital, however, that the purpose of the payment remains to recognise disruption to workers rather than to replace earnings.

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

30%.

Q51.b: Please explain your answer.

There should not be a very short notice payment. However, if the government chooses to implement one based on what the worker would have earned then it should be set no higher than 30%.

A higher percentage would risk making the payment punitive rather than compensatory and would discourage employers from offering additional shifts. A 30% payment would provide additional recognition of the inconvenience caused by very short notice changes while remaining proportionate and preserving employers' ability to respond to changing operational needs.

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

50%.

Q52.b: Please explain your answer.

There should not be a very short notice payment. However, if the government chooses to implement one based on National Living/Minimum Wages rates then it should be set no higher than 50%.

A 50% payment would provide meaningful recognition of the inconvenience caused by a very short notice cancellation of a shift without creating a punitive financial penalty which risks discouraging employers from offering shifts.

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

Yes.

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

Short notice and very short notice payments should not be required where the cancellation of a shift arises from circumstances outside the employer's reasonable control, or where payment would be inconsistent with the purpose of the legislation. Such exceptions should include where the worker initiates the change; severe weather, emergencies, utility failures or other unforeseen extreme events; and where work cannot proceed due to, for example, health and safety considerations or legal requirements.

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

No.

Q59.a: What should the penalty amount be?

A different amount.

Q59.b: Please explain your answer.

At least initially, the purpose of the FWA's intervention should be to ensure that any short notice payments due to workers are paid, rather than to impose additional financial penalties on employers. The rules will be new and likely complex, with the risk of accidental non-compliance high.

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

Different amounts. Minimum £100 per case, maximum £1000 per worker.

Q60.b: Please explain your answer.

Maximum penalties of £5000 to £20,000 would be excessive. Penalties should be reserved for deliberate, repeated, or serious non-compliance rather than genuine mistakes, especially during the early years of implementation.

I hope you have found our comments helpful. If you require further information about our views, please do not hesitate to contact us.

With kind regards,



Alex Hall-Chen

Principal Policy Advisor for Employment

Email: Alexandra.Hall-Chen@iod.com