

Title: Minimum Service Levels (MSLs) for Education Services IA No: 146 RPC Reference No: N/A Lead department or agency: Department for Education Other departments or agencies: N/A	Impact Assessment (IA)
	Date: 20/12/2023
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary Legislation
Contact for enquiries: Minimumservicelevels.consultation@education.gov.uk	
Summary: Intervention and Options	RPC Opinion: RPC clearance not needed

Cost of Preferred (or more likely) Option (in 2023 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
N/A	-£26.1m	Average of £3 million per year, with £0.04 million in initial familiarisation costs. Based on illustrative assumptions on number of strikes over a 10-year period)	Non-qualifying provision Qualifying provision

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

Education is a public service of fundamental importance. Strike action in the education sector risks disruption to children, young people, and parents. When strikes take place, the government issues guidance to schools on keeping schools open where possible, including prioritising attendance. However, this guidance is non-statutory and is not followed consistently. The Department for Education is consulting on options to introduce MSLs in schools, colleges, and universities, using powers granted through the Strikes (Minimum Service Levels) Act (2023). A minimum service level (MSL) for education services on strike days would seek to balance the ability of workers to strike with a child's right to receive an education.

What are the policy objectives and the intended effects?

Objective: The proposals presented in the consultation seek to protect children's education, whilst balancing workers' ability to take strike action. Any minimum service levels regulations that may be implemented following the consultation would apply on days when strike action is taking place in education services and would seek to minimise disruption to children and learners across education settings.

Intended effects: DfE is currently consulting on its MSL proposals detailed within the [consultation document](#). The intention is that MSLs in education would enable children to continue to receive an education, with some cohorts being prioritised to receive face-to-face education.

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

Option 0: ‘Do Nothing’ counterfactual. Strikes would continue to be managed in the education sector as they are currently, for example, through non-statutory guidance to the sector.

Option 1: Voluntary MSLs. MSLs are introduced in the education sector on a voluntary basis, following agreement between the government, unions and employers.

Option 2: Statutory MSLs. MSLs are introduced for education services through regulations following a government consultation. There are currently two proposals for this option:

- **Option 2a – the cohorts-based model.** Face-to-face education is prioritised for vulnerable children and young people; exam groups; and children of critical workers in schools and colleges (‘proposal 1’ in the consultation).
- **Option 2b – the hybrid option.** Face-to-face education is prioritised for primary school pupils, as well as the three priority cohorts outlined above in secondary schools and colleges (‘proposal 2’ in the consultation).

This is a consultation impact assessment and there is no preferred option at this stage. The purpose of this Impact Assessment is to show the potential impacts of the policy, and the purpose of the accompanying consultation is to seek views from those likely to be affected by these proposals. These views will be used to further the government’s understanding and inform future policy considerations. Doing nothing (Option 0) would mean that schools continue to follow the government’s non-statutory guidance for handling strike action. However, this guidance is non-statutory and does not cover all education providers that the government proposes would be in scope of MSLs (e.g. colleges).

The government has already attempted to agree voluntary MSLs with education unions (Option 1). Unfortunately, not enough progress was made during those conversations. However, the Secretary of State has advised unions that during the consultation period she continues to be open to further conversations, and to discussing any proposals they may have to safeguard our children’s education in the event of strike action.

Option 2 would give employers and education leaders an additional tool to manage strike action in their settings, where needed. New regulations would allow employers of schools and colleges to issue work notices to deliver a minimum level of service on strike days. DfE is currently consulting on its MSL proposals detailed within the consultation document.

The consultation also seeks evidence on the impact of industrial action in universities. Given that the government has not set out specific options in the consultation for MSLs in universities, this impact assessment focuses on the proposals relating to schools and colleges only. A further impact assessment will be completed if the universities MSL is taken forward.

Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope? (see paragraph 92 for explanation)	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: NQ		Non-traded: NQ

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
SELECT SIGNATORY: _____

Date: _____

Summary: Analysis & Evidence

Policy Option 2

Description: The assessment below relates to option 2.

FULL ECONOMIC ASSESSMENT

Price Base Year 2023	PV Base Year 2023	Benefits and costs apply to MSL implementation and on a per strike basis	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price)	Average Annual (Constant Price)	Total Cost (Present Value)¹
Low	£0.04 million	£0	£0.04 million
High	£0.04 million	£7.8 million	£7.8 million
Best estimate	£0.04 million	£3 million	£3 million

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

Trade unions

- Familiarisation costs (direct): approximately £4,200 per union across 9 unions (approx. £38,000, rounded to £0.04m). See paragraph 42 onwards.
- Administrative costs (direct): approximately £4.4m per year for teacher strikes and £7.8m per year when strikes include support staff. See paragraph 51 onwards.

There are further costs to this policy which would apply to public sector organisations. However, as public sector costs are not required to be accounted for when looking at the business impacts of policies, they have not been included here. Further detail of the monetised and non-monetised costs to public sector organisations can be found in the main body of the Impact Assessment. See paragraph 47 onwards.

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

Trade unions:

- Lost utility from reduced bargaining power (indirect)

School and college workers:

- Lost utility resulting from the restricted ability to take strike action, partially offset by pay for those working on strike days (indirect)

BENEFITS (£m)	Total Transition (Constant Price)	Average Annual (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

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

Due to the difficulty of predicting the frequency or severity of future strike days, and therefore the uncertainty of how often minimum service levels would be used, we have not quantified the overall benefits of the policy. Instead, we present a range of values across different scenarios, illustrating the benefits of mitigating a single strike day for different MSL options and strike severities.

The benefits of the policy will depend on the number of children and young people who attend as a result of the MSL.

The predicted benefits are a monetised educational benefit pupils would gain from attending a day of school or college and range from £44 million to £266 million per day of strike action (see Table 5, page 17).

¹ Total costs have been rounded to nearest £100,000

Other key non-monetised benefits by ‘main affected groups’

Pupils/students:

- Additional educational attainment for pupils from continuing to receive face-to-face education (direct)
- Safeguarding and wellbeing benefits – particularly important for vulnerable groups (direct)

Parents:

- Economic benefits associated with increased economic activity whilst children are attending school (indirect)

Wider economy and government:

- Increased GDP from reduced disruption to workers (indirect)
- Reduced impact on the day-to-day operation of critical services (indirect)
- Increased business profitability from reduced disruption (indirect)

Key assumptions/sensitivities/risks

Our key assumptions are that:

- MSLs will be implemented in accordance with the proposals set out in the consultation
- The quality of education provided to children and young people attending face-to-face education is broadly equivalent on a strike day to a non-strike day
- Children and young people who do not attend a face-to-face education setting on a strike day receive no educational benefit for that day²
- To provide a higher-end estimate of union costs, we have assumed an illustrative scenario that over a 10-year period there are strikes by teaching staff every other year and strikes by support staff once in every five years³
- Our minimum benefit is based on the strikes seen in AY2022/23, with approximately 6% of schools closing, and the MSL option with the lowest pupil coverage. The maximum benefit is the MSL option with the greatest pupil coverage and a strike severity such that all schools and colleges would close

We will continue to refine these assumptions based on evidence gathered throughout the consultation.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:

For this policy, the only business costs in scope are those pertaining to the trade unions. This is a summary of the overall business impacts of the policy, referenced in the costs and benefits sections above.

Costs: £3 million	Benefits⁴: N/A	Net: -£3 million
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Introduction

Overview of the education system

1. Under the Education Act 1996, education is compulsory for all children from age 5 until the end of the academic year in which they turn 16.⁵ In England, the vast majority of children

² DfE recognises the value of remote education in these instances, however we have included this as a simplifying assumption in the absence of data on how many children received remote education during strikes.

³ Whilst our starting point for this estimate was the number of times teaching and support staff unions have taken strike action in the past 10 years. We have then included additional instances of strike action to ensure we do not underestimate the likely costs to unions of the policy. This is an illustrative scenario for the purposes of estimating possible costs only.

⁴ This section looks at the direct costs and benefits to business because of the MSLs. While wider economic benefits may apply from the policy, they are indirect benefits and thus not applicable for inclusion here.

⁵ Section 8, [Education Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

(approximately 93%) receive that education in state-funded schools.⁶ A minority (approximately 7%) are educated in independent schools which are not funded by government. Pupils attending independent schools have been excluded from this impact assessment as they are not in scope of the consultation proposals. A small proportion of children are home-educated. Young people of academic ages 16 and 17 are under a duty to continue education or training until their 18th birthday.

2. In January 2023 there were 4,650,000 pupils at state-funded primary schools (including early years pupils who are excluded from this MSL – approximately 270,000) and 3,630,000 pupils at state-funded secondary schools.⁷ In addition, 160,000 pupils attended state-funded Special and Alternative Provision schools and colleges.⁸ A special school provides education for children with special educational needs, where those needs cannot be met with the provision and support provided by mainstream schools.
3. In AY 22/23 640,000 students attended colleges⁹ after finishing year 11. This excludes pupils attending school-based sixth forms, who are counted as pupils attending state-funded secondaries.
4. There are over 22,000 schools and colleges, many of which are in multi-academy trusts or local authorities. Some employers can oversee multiple schools, and there are around 7,000 employers of school and college teachers in England.¹⁰
5. Academies (including free schools) receive their funding directly from government. Teachers are employed by the MAT, or directly by the academy if the school does not belong to a MAT. Colleges also receive their funding directly from government. They employ teachers directly. Local authority-maintained schools receive their funding via their local authority. In some cases, the local authority employs the school staff, in other cases the school employs the staff.
6. There are 285 higher education institutions in the UK in 2020/21¹¹, with the majority of funding coming from student tuition fees, with additional government support.
7. Employment rights and duties and industrial relations are reserved matters in Great Britain. The Strikes Act enables the government to apply an MSL to key sectors across Great Britain. The government recognises that in some cases this will affect employers in services that are devolved. The UK Government is engaging with the Scottish Government and Welsh Government on the geographical scope of the regulations and will continue to work

⁶ [Schools, pupils and their characteristics, Academic year 2022/23 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.get-information-schools.service.gov.uk/_The number of education employers is equal to the number of local authorities, academy trusts and governing bodies)

⁷ [Schools, pupils and their characteristics, Academic year 2022/23 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.get-information-schools.service.gov.uk/_The number of education employers is equal to the number of local authorities, academy trusts and governing bodies)

⁸ [Schools, pupils and their characteristics, Academic year 2022/23 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.get-information-schools.service.gov.uk/_The number of education employers is equal to the number of local authorities, academy trusts and governing bodies)

⁹ [Participation in education, training and employment age 16 to 18, Calendar year 2022 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.get-information-schools.service.gov.uk/_The number of education employers is equal to the number of local authorities, academy trusts and governing bodies) – 16-18 Pupils studying further education at General FE tertiary specialist colleges, Sixth form colleges and FE special schools in AY 21/22

¹⁰ [https://www.get-information-schools.service.gov.uk/_The number of education employers is equal to the number of local authorities, academy trusts and governing bodies.](https://www.get-information-schools.service.gov.uk/_The number of education employers is equal to the number of local authorities, academy trusts and governing bodies)

¹¹ [Higher Education Student Statistics: UK, 2021/22 | HESA](https://www.get-information-schools.service.gov.uk/_The number of education employers is equal to the number of local authorities, academy trusts and governing bodies)

with them. This impact assessment covers England only.

Teacher strikes in the academic year 2022/23

8. During the AY2022/23 spring and summer terms, the National Education Union (NEU) – the largest teaching union - undertook ten national and regional strike days, with any individual pupil being potentially affected by up to eight strike days. This resulted in reduced attendance on strike days, with some strikes resulting in 6% of schools closing for the day¹². During these strikes approximately 50% of state school pupils and students (excluding FE) were unable to attend school as normal.¹³ Strike action also occurred in colleges, however, compared to schools, it was less widespread and fewer students experienced disruption.
9. During this time, DfE issued non-statutory '*Handling strike action in schools*' guidance¹⁴ (the 'Strikes guidance') encouraging schools to protect provision for vulnerable children and young people, exam year groups, and children of critical workers. For the strikes on 27 April 2023 and 2 May 2023, the NEU issued guidance stating that the union will support arrangements that provide the minimum level of teaching staff needed to allow years 11 and 13 to attend school for supervised revision activities or exam practice.
10. Higher education has experienced disruption from industrial action since 2018. This has primarily taken the form of strike action resulting in some cancelled lectures and seminars. During the summer of 2023, action short of a strike took place at many institutions in the form of a marking and assessment boycott¹⁵, and a number of students were not awarded their degree classification when expected. This led to problems for some students being accepted onto postgraduate courses, entering employment and, for some international students, securing visas.

Policy objectives

11. The government proposes that an MSL in schools and colleges should aim to:
 - ensure a child's education can continue as far as possible; including through remote education where face-to-face teaching is not possible;
 - mitigate against further lost education for pupils and students;
 - ensure the safeguarding and welfare of vulnerable children and young people;
 - allow children and young people to prepare, without disruption, for critical public exams and formal assessment; and
 - maintain the running of specified services in the Strikes (Minimum Service Levels) Act 2023.
12. These objectives clearly need to be balanced with the ability of workforces to strike and we are seeking views through our consultation on the best way to achieve this.

¹² [School closures during the 2023 teacher strikes - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

¹³ [Pupil attendance in schools, Week 29 2023 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.explore-education-statistics.service.gov.uk) See section entitled National and Regional teacher strikes.

¹⁴ [Handling strike action in schools - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

¹⁵ [Marking and assessment boycott 2023 | University and College Union \(open.ac.uk\)](https://www.open.ac.uk)

Description of options considered

Option 0 – Do Nothing

13. At present, there are no requirements in law for schools and other education settings to provide a minimum level of service during strike days. Instead, DfE publishes non-statutory guidance for employers, governing bodies, school and trust leaders, and staff in maintained schools and academies, (the 'Strikes guidance'). DfE also publishes Emergency Planning Guidance that FE providers use when dealing with incidents that are not emergencies, such as industrial action.
14. Under this option, the level of service is likely to be mainly dependent on the nature and extent of the strike action and on any local arrangements that are in place between employers and unions to mitigate impacts. In some settings, service is likely to be limited or the setting could close completely. In this way, it would not be possible to ensure a consistent level of provision available across the country.

Option 1 – Voluntary MSLs

15. MSLs are introduced in the education sector on a voluntary basis. A voluntary agreement is a commitment between the government, unions, and employers to deliver a minimum level of service on strike days. It would set out principles for prioritising the attendance of children and young people during strike days. While this agreement would be voluntary, DfE would have a clear expectation that, in the event an agreement is reached, unions and employers will work together to ensure the minimum service level is achieved.
16. Once in place, these agreements remain voluntary and can therefore break down at short notice. This can increase the disruption to children, young people, and parents as they are unable to appropriately plan for strike days.
17. Following a period of discussions between DfE and education trade unions on voluntary agreements, we were not able to achieve significant progress to ensure that protections for children and young people are in place for the next academic year. The Secretary of State has advised unions that during the consultation period she continues to be open to further conversations and to discussing any proposals they may have to safeguard our children's education in the event of strike action.

Option 2 – Statutory MSLs

18. The consultation presents two options for which groups of students should be prioritised for face-to-face attendance under minimum service levels, outlined below.

Option 2a - Cohorts

19. MSLs are introduced by the government via regulations following consultation. The regulations would specify the MSL and which children and young people it would apply to for face-to-face education. For education services, the covered groups are:

- Vulnerable children and young people
- Pupils and students due to take public examinations and formal assessments
- Children of critical workers

Option 2b – Hybrid (Primary pupils and Cohorts)

20. MSLs are introduced by the government via regulations following consultation. The regulations would specify the MSL and which children and young people it would apply to for face-to-face education. For education services, the covered groups are:

- All pupils in primary schools
- Vulnerable children and young people
- Pupils and students due to take public examinations and formal assessments
- Children of critical workers

21. In addition to the benefits for option 2a, this option would further provide additional benefits for younger pupils. Younger children were found to be disproportionately impacted by being out of face-to-face education during the pandemic,¹⁶ and this option attempts to ensure their education is protected.

22. Across both options, the consultation also proposes that during prolonged strike action (defined as lasting five consecutive days or more), an additional rotas requirement would apply. This would allow all children and young people who are not included in a specified cohort to attend school or college on a rota basis, ensuring they continue to receive some face-to-face education. This would apply in either option. How often children and young people would be able to attend under these rotas has not been defined at this consultation stage, and as such the impacts of rotas are not covered in this impact assessment.

Impact of absence on student groups

23. The groups identified in these proposals are those which government believes have a particularly pressing need to continue receiving face-to-face education on strike days. The consultation invites views on whether these are the right groups for schools and colleges to prioritise and the impacts of doing so.

¹⁶ Pupils' progress in the 2020 to 2022 academic years - GOV.UK (www.gov.uk)

Vulnerable children and young people

24. Schools and colleges provide an important safeguarding function for vulnerable children and young people. The impact of missing education can be more severe for these groups. Evidence from the pandemic shows their education suffered more significantly than their peers.¹⁷
25. Some vulnerable children and young people, such as those with child protection or children in need plans, are also at higher risk of harm – hence why they are classified as vulnerable. Ensuring that vulnerable children and young people remain protected is a top priority for the government.
26. In the consultation, vulnerable children and young people are defined as:
- those with an Education, Health and Care Plan
 - looked after children and young people
 - children with a child protection plan
 - children with a Child in Need Plan
 - SEN support children.

Exam groups

27. Strikes have a disproportionate impact on exam cohort students in the run-up to externally marked exams. Evidence shows that missing school shortly before an exam has a larger detrimental impact on attainment than missing face-to-face education at an earlier point.^{18,19}
28. During the AY2022/23 strikes, DfE's guidance recommended prioritising attendance for pupils in exam cohorts. For the strikes in the run up to exams, the NEU also issued guidance stating that the union will support arrangements that provide the minimum level of teaching staff needed to allow years 11 and 13 to attend school for supervised revision activities or exam practice.
29. In the consultation, this group is defined as children and young people undertaking certain statutory examinations that year, such as:
- year 6 pupils undertaking end of KS2 national curriculum assessments
 - pupils participating in statutory KS2 trials, such as the anchor trial
 - Students taking GCSEs, AS and A levels and Vocational and Technical Qualifications (VTQs), including T Levels, and other national qualifications
 - year 11 students participating in the National Reference Test.

¹⁷ Pupils' progress in the 2020 to 2022 academic years - GOV.UK (www.gov.uk)

¹⁸ "When" Students Miss School: The Role of Timing of Absenteeism on Students' Test Performance - Michael A. Gottfried, J. Jacob Kirksey, 2017 (sagepub.com)

¹⁹ [Missing Children, Missing Grades | Children's Commissioner for England \(childrenscommissioner.gov.uk\)](http://childrenscommissioner.gov.uk)

Children of critical workers

30. Many parents involved with the provision of critical services can be impacted when education strikes occur, limiting their ability to work, which can have impacts on wider society. The government considers it important that the public who rely on these critical services are not prevented from accessing them because of education strikes.

31. In the consultation, this group is defined as:

- those in health services, fire and rescue services, education services, transport services, border security and the decommissioning of nuclear installations
- those unable to strike, such as police officers, members of the armed forces and prison officers.

32. The consultation also proposes that the MSL would only apply to pupils and students where both parents, carers or guardians are critical workers, or for critical workers in a single parent household.

Primary school pupils

33. Younger children are generally less able to study independently²⁰ and the disruption caused by strikes can have a larger impact on them.

34. During primary school, pupils develop foundational skills which are highly important to their future attainment.^{21, 22} Proportionally, younger children are also more impacted by missed school days because they are losing a greater proportion of their education than older pupils.

Monetised and non-monetised costs and benefits

35. This section describes potential costs and benefits in comparison to the 'do nothing' counterfactual. Option 0 is taken to be the baseline with the benefits and costs of the other options relative to it.

36. The comparison of costs and benefits in this section includes a qualitative assessment of the expected costs and benefits associated with increased service levels during strikes. Where appropriate, these costs and benefits are monetised. The costs given also assume a number of years in which strikes occur. The illustrative scenario used is designed to provide a higher-end estimate of the costs.

37. Estimates of familiarisation costs to schools, colleges and unions have been provided in this impact assessment to give a sense of possible scale. However, these are based on high level assumptions about the amount of time and number of employees per organisation

²⁰ [Coronavirus and homeschooling in Great Britain - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)

²¹ [Invest in Early Childhood Development: Reduce Deficits, Strengthen the Economy - The Heckman Equation.](#)

²² [The economic benefits of effective reception classes](#)

required to familiarise themselves with the MSL requirements. These estimates are intended to provide an indication of order of scale and will depend on how MSLs are specified.

38. The benefits in this section are shown on a per strike day basis. Given the number of strike days that will occur in the future cannot be predicted, the overall benefits of the policy cannot be determined with certainty. As a result of the differing approaches taken, it is not possible to provide a direct comparison between the costs and the benefits.

39. This analysis will be reviewed in light of evidence gathered throughout the consultation.

Extent of MSL coverage by education phase

40. This impact assessment estimates how many children and young people would be covered by each of our proposals on a single strike day. To estimate this, we:

- Identify the number of children and young people in each year group and phase of education²³
- Identify the subset of children and young people who are part of the MSL cohort groups based on the given definitions²⁴
- Account for any overlaps where a pupil may be part of multiple groups, so that each pupil is only included once
- Aggregate to show the number of pupils covered in each phase.

Table 1: MSL pupil and student coverage

41. The following table sets out the number and proportion of students covered by each MSL proposal across different types of provider. Percentages refer to the proportion of pupils affected within the relevant phase. Figures in the table are rounded and not exact.

Option	Primary school pupils covered by MSL	Secondary school students covered by MSL	Special school students covered by MSL	College students covered by MSL	% of all pupils and students covered by MSL on a strike day
Option 2a (cohorts)	1,370,000 (31%)	1,640,000 (45%)	160,000 (100%)*	640,000 (100%)*	43%

²³ [Schools, pupils and their characteristics, Academic year 2022/23 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics/service/gov-uk)

²⁴ [Children in need, Reporting year 2023 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics/service/gov-uk)
[Children looked after in England including adoptions, Reporting year 2022 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics/service/gov-uk)
[Outcomes of children in need, including looked after children, Academic year 2018/19 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics/service/gov-uk)
[Special educational needs in England, Academic year 2022/23 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics/service/gov-uk)
[Schools, pupils and their characteristics, Academic year 2022/23 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics/service/gov-uk)

Option 2b (hybrid)	4,380,000 (100%)	1,640,000 (45%)	160,000 (100%)*	640,000 (100%)*	77%
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*Special schools and colleges have 100% coverage as all pupils attending special schools are classed as vulnerable and all young people at college are deemed to have an exam in that year, which puts them in scope of the exam year group.

42. Individual employers will decide what staffing level and mix is required to meet the minimum service level. We expect this to be lower than the percentage of children or students covered but we are seeking feedback and evidence on likely levels as part of our consultation.

Monetised costs of the preferred option

Familiarisation costs to unions

43. We assume that it would take between half a day and two days for each union's General Secretary and four other senior directors (with a central estimate of one day or eight hours) to familiarise themselves with the proposed policy. This is based on the evidence obtained from unions in the consultation on the assurance of trade union membership registers, as set out in the related Impact Assessment,²⁵ which placed additional requirements on unions to maintain their membership registers. A similar approach was also taken in the Strikes (Minimum Service Levels) Bill Impact Assessment.

44. Estimates from the Annual Survey of Hours and Earnings (ASHE)²⁶ suggest that the median hourly wage of a General Secretary is £38.97 and a senior union official is £30.83.²⁷ These values are then uplifted by 17.9% to cover the non-wage labour costs. The calculations are presented in the table below. This results in a central estimate of familiarisation costs for union officials of £1,570 per union.

Table 2: Total familiarisation costs by job role per union

Job role	Number of Officials	Median Hour Pay (Uplifted)	Time Taken (Hours)	Total (nearest £'00)
General Secretary	1	£45.95	8	£370
Other Senior Official	4	£36.35	8 (32 in total)	£1,200

45. It is expected that unions will seek legal advice as part of the familiarisation process. Using a similar methodology to the Trade Union Enactment Impact Assessment, it is assumed that this will take eight hours. The 2016 Impact Assessment,²⁸ based on evidence from unions, assumed that it would cost £250 per hour for legal advice. This has been updated to £320 in

²⁵ BIS, Certification of trade unions' membership registers and investigatory powers for the Certification Officer Impact Assessment, December 2014, p10 [Trade union assured register of members: final impact assessment \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/371117/trade-union-assured-register-of-members-final-impact-assessment.pdf)- this placed additional requirements on unions to maintain their membership registers.

²⁶ ASHE (2022). Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14.6a Hourly pay – Excluding overtime (£) – For all employee jobs: United Kingdom, 2022. [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/economy/earnings-and-hours-worked/tables/14)

²⁷ This IA uses the median wage of 'Functional manager and directors n.e.c' as a proxy for a General Secretary or union senior official wage (SOC 1139). In the Trade Union Enactment Impact Assessment, the median hourly wage for chief executives and senior officials is used as a proxy for the wage of a union General Secretary.

²⁸ [trade union act enactment IA BEIS clean.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/371117/trade-union-act-enactment-ia-beis-clean.pdf)

2023 prices.²⁹ On the basis of £320 per hour for eight hours of familiarisation, we estimate total legal costs per union to be around £2,600.

46. The total familiarisation cost, including legal advice, per union is estimated at around £4,200. If the nine main education unions – ASCL, Community, GMB, NEU, NAHT, NASUWT, UCU, Unison, Unite - incur the estimated cost per union, the total familiarisation cost to unions would be around £37,800.³⁰

Familiarisation costs to employers

47. We assess that there will be familiarisation costs for employers associated with the secondary legislation. To estimate these, it is assumed that, as a minimum, organisational leaders and education managers³¹ would take eight hours to familiarise themselves with the legislation.

48. Estimated median hourly wages for the relevant occupations, taken from the Annual Survey of Hours and Earnings 2022³², have been raised by 17.9%³³ to take account of non-wage labour costs. The median hourly wage rates (excluding overtime) and therefore, the estimated total labour costs are set out below and have been used to estimate the costs per organisation. The median wage does not indicate the range of wages within each job role.

Table 3: Total familiarisation costs by job role per employer

Job Role	Number of roles	Median hourly wage (excl. overtime)	Median hourly labour costs (incl. non-wage costs)	Time taken (Hours)	Total cost
Organisational leader	1	£39.30	£46.33	8	£370
Education Manager	3	£22.22	£26.19	8	£630

49. The costs to employers are estimated as the hourly labour cost multiplied by the hours of familiarisation and the estimated number of employers affected. This gives a total cost of £1000 per employer.

50. Employers could seek legal advice as part of the familiarisation process. Using a similar methodology to the union costs, we assume that it would cost £250 per hour for legal advice. This has been updated to £320 in 2023 prices.³⁴ On the basis of £320 per hour for eight

²⁹ [Inflation calculator | Bank of England](#)

³⁰ Note that some teachers may be represented by other unions. However, these unions account for a small proportion of the teaching workforce and therefore have not been included in calculations, as the extent to which they would need to familiarise with legislation is unclear

³¹ Note that the assumptions included here around the number of workers required to familiarise per organisation and per type of worker are high level and may vary by organisation.

³² [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Office for National Statistics \(ons.gov.uk\)](#)

³³ Estimated from latest ONS Index of Labour Costs per Hour publication. [Index of Labour Costs per Hour, UK - Office for National Statistics \(ons.gov.uk\)](#) Here, the non-wage labour cost uplift uses 2019 Q4 to 2020 Q3 figures (seasonally adjusted). To estimate the uplift, non-wage costs per hour as a proportion of total labour costs (15%) are divided by wage costs per hour as a proportion of total labour costs (85%) (i.e. $0.152/0.848=0.179$). Therefore, the IA has uplifted wages by 17.9% to get an estimate of total labour costs.

³⁴ [Inflation calculator | Bank of England](#)

hours of familiarisation, we estimate total legal costs to be around £2,600 per employer. If all 7,000 employers did this, we estimate costs would total £18.2m.

Administrative costs to unions

- 51. Employers will also be required to consult with unions before issuing work notices. For the purposes of costing at this stage, we estimate costs based on work notices being agreed at a setting level. It is assumed that there could be up to four teaching unions present in any given school (two leadership unions, plus two teaching unions)³⁵. Therefore, if a representative from each union in a school was required to consult on the work notices, it would require approximately 88,000 consultations to take place (on the basis of 22,000 schools and four unions per school).³⁶
- 52. In the college sector, there are three main teaching unions: the NEU, NASUWT and the UCU. Here, we estimate that a total of 750 consultations would take place with the three teaching unions in 250 colleges.
- 53. There are three main unions – GMB, Unison and Unite – covering support staff in the education sector. If all these unions are consulted during strikes it would require a total of 67,000³⁷ additional consultations across schools and colleges. Therefore, if both teaching and support staff unions were to strike in the same year a total of approximately 156,000³⁸ consultations would need to take place.
- 54. If it is assumed that it would take an average of two hours to consult on the work notices at, an average pay cost of £25 per hour. This would create an additional cost of £7.8 million (excluding inflation) on unions per year – multiplying 156,000 consultations by £25 per hour and 2 hours. This is comprised of a £4.4 million cost for the teaching unions and a £3.4 million cost for the support staff unions.
- 55. The following table provides an example of when strikes may occur and the costs to unions thereof, accounting for inflation. It assumes that if only teaching unions are striking, support staff unions would not engage with the work notice consultation as none of their members would be involved with the strike and vice versa.

Table 4: High estimate of education strikes over the next 10 years based on an illustrative scenario³⁹

Academic Year	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	Total
Teaching strike cost	£4.5 million	£0	£4.6 million	£0	£4.8 million	£0	£5 million	£0	£5.2 million	£0	£24 million

³⁵ We recognise that not all four unions would be present in every setting, including from a leadership perspective where NAHT primarily (but not exclusively) represent primary school leaders, and ASCL primarily (but not exclusively) represent secondary leaders.
³⁶ Where Community members are present in a school, we have assumed this would be instead of either NEU or NASUWT being present.
³⁷ Numbers are not exact due to rounding
³⁸ Numbers are not exact due to rounding
³⁹ Based on education strikes over the last 10 years, with additional strike instances added to provide high estimate and avoid underestimating the cost to unions.

Support staff strike cost	£3.4 million	£0	£0	£0	£0	£3.7 million	£0	£0	£0	£0	£7.1 million
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56. This gives a total cost to unions over the ten-year period of £31.1 million or a Present Value cost of £26.1 million in 2023 prices. On annual basis, this equates to an average cost of £3m.⁴⁰

Non-monetised costs

Cost to employers

Administrative costs

57. It is expected that there will be additional administrative costs to employers from developing, consulting on and issuing work notices. These have not been monetised at this stage as the final policy has not been decided. These costs will be considered in more detail following this process.

Costs to teachers

58. Union membership, and the associated ability to take strike action, represents utility (or collective bargaining power) to a trade union member. From an industrial relations perspective, it is argued that part of this utility comes from the fact that unions help counterbalance the bargaining power that employers have over their staff. And that, strike action, and the threat thereof, may in some cases lead to improved terms and conditions for workers. In the case of teachers, in maintained schools pay awards are based on recommendations from the independent pay review body, with evidence provided by consultees, including unions, rather than by direct negotiation with unions. Most academies choose to adopt the review body recommendations, though do not have to. The extent to which union membership will be affected by MSLs is yet unknown.

59. The MSL proposals do not remove the overall ability to strike, and strike action with an MSL in place is still likely to cause disruption. MSLs could mean fewer instances of pay being withdrawn on the basis of striking. However, employees are likely to only undertake strike action when they assess the benefits of striking outweigh the negatives. While workers who are prevented from striking will retain pay for working that day, this is offset by their assumption that undertaking the strike action would lead to benefits in excess of that.

Monetised benefits

60. Given the uncertainty in predicting how long or severe any future strike action may be, the benefits presented here are expressed as a range. They range from the scale of the AY2022/23 strikes where one teaching union was on strike (resulting in approximately 50% of students being absent) to a scenario of combined strikes by other major teaching and leadership unions resulting. In the latter scenario, it is assumed that all settings may close,

⁴⁰ Figures are generated from standard government assumptions as can be seen from [The Green Book and accompanying guidance and documents - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/the-green-book-and-accompanying-guidance-and-documents)

resulting in student absences of up to 100%. This impact assessment focuses on strike action on a national rather than local level.

Estimated benefit of the MSL to learners in economic terms

61. The government assumes that the minimum economic benefit of education is £65.4 billion per year:
- Funding for mainstream schools (5-16 years) and high needs will total over £57.7 billion in the financial year 2023-24.⁴¹ This is approximately £7,500 per pupil. Assuming 190 school days per year, this is more than £39 per day for each child.⁴²
 - Funding for 16-19 education will represent a further £7.7 billion in academic year 23/24.⁴³
62. The £39 benefit per day of education is applied to all pupils in schools and FE.
63. The number of students estimated to benefit from the MSL is the difference between the number who would attend in a strike when there is no MSL, and a strike when there is an MSL in place.
64. For the lower bound, we use data from the 2023 education strikes⁴⁴:
- For institutions where face-to-face attendance was at or above the proposed MSL, we assume no increase in student attendance so no students benefit;
 - For institutions where face-to-face attendance was lower than the proposed MSL, the number of students benefitting is the difference between the average attendance rate in the strikes and the attendance rate under the MSL.
65. For the upper bound, it is assumed that all schools and colleges are closed and therefore no students attend. The number of students benefitting is therefore equal to the number of students in scope of the proposed MSL.
66. The benefit of the MSL is calculated by multiplying the number of children and young people who attend as a result of the MSL by the value of that day's education. This gives benefits of at least between £44 million and £266 million per strike day, depending on the chosen option.
67. More teachers striking increases the disruption that is caused. However, it is not possible to estimate how many schools and colleges will close or partially close under different

⁴¹ [School funding statistics, Financial year 2022-23 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](#)

⁴² The £39 figure is likely to be an underestimate of the full benefits of a day in education, and this figure will be further refined following consultation

⁴³ [16 to 19 allocation data: 2023 to 2024 academic year - GOV.UK \(www.gov.uk\)](#) – figures for “total funding” across all providers listed. Includes student support funding.

⁴⁴ [School closures during the 2023 teacher strikes - GOV.UK \(www.gov.uk\)](#)

This data for secondary schools in this publication may include some FE institutions, which have been treated separately in this analysis

combinations of unions on strike. Therefore, the benefits of an MSL will vary between the values given above, with more benefits as strike severity rises.

Table 5: Estimated number of pupils that would benefit from the MSL (compared to existing strike days) and the economic benefits

Option	Primary school pupil increase	Secondary school student increase	Special school student increase	College student increase	Low economic benefit	High economic benefit
Option 2a (cohorts)	160,000 – 1,370,000	740,000 - 1,640,000	60,000 - 160,000	170,000 - 640,000	£44 million	£149 million
Option 2b (hybrid)	1,250,000 - 4,380,000	740,000 - 1,640,000	60,000 - 160,000	170,000 - 640,000	£87 million	£266 million

Non-monetised benefits

Benefits to Pupils and Students

68. In the section above we estimate the monetised benefits of education. We assess there are likely to be additional benefits that go beyond this estimate. For some children and young people, not attending school or college may expose them to a less safe environment. Enabling those children and young people to attend a school or college setting could reduce any risks to them.

69. There is clear evidence that absence from schools and colleges has a negative impact on children and young people’s levels of attainment.⁴⁵ Research shows that each day of absence reduces attainment levels.⁴⁶ Pupils who perform better at the end of primary and secondary school miss fewer days than those who do not perform as well.⁴⁷ Students with higher attendance gain the best GCSE and A-level results. These impacts are particularly pronounced for certain pupil groups, especially more vulnerable children and young people.

Benefits to parents

70. Assuming MSLs increase the number of children and young people attending face-to-face education on strike days, this would reduce the disruption of workers (i.e., parents) being able to get to work. Some parents are unable to arrange childcare for strike days and so may need to miss a workday.

71. Prior to the school strikes, working parents were surveyed on how education strikes would impact them. Around 60% said their work would be affected, with 31% reporting that they would have to work fewer hours and 28% reporting they would not be able to work.⁴⁸ This

⁴⁵ The link between absence and attainment at KS2 and KS4, Academic year 2018/19 – Explore education statistics – GOV.UK (explore-education-statistics.service.gov.uk) – published 6 May 2022

⁴⁶ Sims, S. 2020. “School Absences and Pupil Achievement.” CEPEO Briefing Note No. 1. London, UK: Centre for Education Policy and Equalising Opportunities, UCL Institute of Education cepeoebn1.pdf (ucl.ac.uk)

⁴⁷ [Why is school attendance so important and what are the risks of missing a day? - The Education Hub \(blog.gov.uk\)](https://www.blog.gov.uk/2020/09/01/why-is-school-attendance-so-important-and-what-are-the-risks-of-missing-a-day/)

⁴⁸ [Public opinions and social trends, Great Britain - Office for National Statistics](https://www.gov.uk/government/statistics/public-opinions-and-social-trends-great-britain)

equates to around 6 million parents being affected.⁴⁹ Given the uncertainty around which pupils would be unable to attend school in event of a strike and their parents' employment situations, it is not possible to determine and monetise the scale of these impacts.

Impacts on critical services

72. By design, the policy will enable parents who work in certain critical sectors to attend work as normal. Many of these critical roles are unable to be done from home and so non-attendance means the service received by the public is reduced. The impact may be marginally different in each sector.
73. For example, approximately 31% of people who work in the health and social care industry have a child aged between 5 and 15 years⁵⁰. Evidence also indicates that the health and social care industry is among those with the greatest resistance/barriers to increased levels of homeworking⁵¹. Given these factors we would expect this sector to be more affected by education strikes causing potentially significant impacts on the wider population.

Benefits to Government

74. If the policy were to result in a higher number of children and young people attending school and college during strike action, with a significant increase in attendance relative to Option 0, then it may generate wider economic impacts from additional parents working. This in turn could lead to more tax revenues from increased volume of economic activities, indirectly benefiting Government finances.

Wider economic benefits

75. More parents being able to go to work will increase economic activity. This would lead to an increase in GDP compared to the counterfactual. It will benefit the economy by allowing work to proceed with less disruption, and increased profitability of businesses.
76. Given the degree to which some parents can work from home and the variable impact that strikes would have on pupil absence, it is difficult to estimate the monetised impact that MSLs would have on economic activity. This will be further explored following consultation, once the policy has been defined.

Equivalent annual net direct cost to business

77. For the purposes of this impact assessment, schools and colleges are not classed as businesses. Therefore, the costs imposed upon them by MSLs are judged to impact the public sector.
78. Businesses which are impacted by MSLs are the trade unions, upon which additional responsibilities are imposed. As detailed above the costs of familiarising themselves with the legislation is judged to be approximately £4,200 per union and with an estimated nine unions

⁴⁹ Calculations based on [Families and the labour market, UK: 2021 \(ONS, July 2022\)](#)

⁵⁰ [Coronavirus and key workers in the UK - Office for National Statistics \(ons.gov.uk\)](#)

⁵¹ [Is hybrid working here to stay? - Office for National Statistics \(ons.gov.uk\)](#)

impacted in the education sector. This has an approximate cost of £38,000.

79. As school strikes are unlikely to happen each year, viewing the costs over a single year is likely to lead to an over or underestimate of the total impact on business. As detailed above, a higher-end estimate for the impact on unions over a 10-year period is a total undiscounted cost of £31.1 million or a net present value of £26.1 million. This becomes an average net direct cost to businesses per year of £3 million.

Wider impacts

School and College Impact Target Calculations

80. Schools and colleges would incur some costs from implementing the MSL, including additional administrative and familiarisation costs, which are described above. These costs have not been monetised because the final MSL has not been established. Therefore, a Business Impact Target score has not been provided in this impact assessment. The government will revisit this following the consultation.

Indirect Costs and Benefits

81. In addition to the indirect costs and benefits set out above, there may be further indirect impacts as a result of the MSL.
82. The implementation of MSLs may lead to changes in the relationship between trade unions, education employees and employers. These knock-on impacts are highly uncertain and could lead to costs or benefits for the education sector depending on many factors.

Sensitivity Analysis

83. The main sensitivity to the impact of the MSL are the values given to a day's education.

Table 6: Sensitivity analysis on the value of a day's education assumption

Sensitivity	Value	% change
Option 2a	£44 million - £149 million	
10% increase in value of a day's education	£48 million - £165 million	10% rise
10% reduction in the value of a day's education	£40 million - £135 million	10% fall

84. The main sensitivities have a moderate impact on the outputs when changed. The difference is proportional to the degree to which the sensitivity is altered. For example, if the value of a day's education changes by 10%, the overall value of the policy changes by 10%.
85. The other sensitivity of the MSL is the counterfactual i.e. what level of service would be in place if the MSL did not exist. The minimum level of disruption is considered on the basis of strike action similar to that seen in the 2022/23 academic year (with the NEU alone striking

in schools), with similar consequences to the strikes seen last academic year. The upper end of the range would see all schools and colleges being shut as a result of strikes. Future strikes could cause disruption to any level between these points given different combinations of unions striking and different proportions of the membership going on strike. There is insufficient information to estimate the severity of some scenarios. Therefore, an estimate of the financial benefit cannot be generated.

86. However, the costs and benefits of the MSL are expected to depend heavily on the service levels mandated by MSLs during a strike, which are to be determined following consultation. Overall, the magnitude of costs and benefits of the MSL to different parties are expected to increase to varying degrees as the required service levels increase. For example, increases in mandated attendance levels lead to, on average, reduced negative impacts of strike action to children and young people, schools, colleges, parents, wider society and government. However, they are also likely to lead to greater disbenefits to workers.
87. Impacts of the MSL would also be sensitive to the assumption on service levels during strikes used in the 'do nothing' option. Service levels can vary substantially on the type of strike, ranging from a worst-case scenario of the complete shutdown of schools and colleges to the possibility of much greater service levels. The MSL is expected to have greater impacts in cases where strikes would have caused larger attendance reductions.
88. While the minimum benefit detailed in this Impact Assessment is of strikes similar to the ones that occurred in the 22/23 academic year, the MSL can have benefits at lower levels of industrial action. Should a local issue occur which causes teachers in that area to strike, the MSL could be applied to protect educational provision. As the MSL is applied on a school-by-school basis, the policy can help ensure continued education provision, even if only one school would be impacted by strikes.
89. The benefit provided by the MSL also depends on how many schools and colleges use the ability to issue work notices. For this analysis, we have assumed that all schools and colleges will take this action on strike days and meet the pupil coverage requirements set out in the MSL. If they do not do this, the benefits of the MSL will be reduced, the extent to which is dependent on how many schools do not issue work notices.

Wider Impacts

Equalities

90. For a detailed assessment of the equalities impact of this MSL see the Equalities Impact Assessment.

Justice Impact Test

91. The MSL is not anticipated to impact the justice system.

Trade Impact

92. As set out in the Better Regulation Framework guidance, all Impact Assessments must consider whether the policy measures are likely to impact on international trade and investment. The government does not assess that the introduction of powers in the education sector will have any impact on international trade.

Family Test

93. This MSL aims to improve family life due to the expected positive impact on the right to respect for private and family life.
94. In addition, ensuring continuity of education for children and young people will ensure family routines are not disrupted, reducing child and parental stress, and allowing a full family life to be conducted.

Health Impact Assessment

95. This MSL is likely to reduce the detrimental impacts of education strikes. The costs and benefits section has some evidence relating to the ability of health workers to provide healthcare service.

Sustainable Development

96. This MSL is not anticipated to impact sustainable development.

Competition Assessment

97. This MSL is not anticipated to have substantial impacts on competition.

Greenhouse Gases/Wider Environmental Impact Test

98. This MSL is expected to result in increased travel to school and college, which may increase car and bus usage. If so, the MSL could generate some additional carbon emissions and reduced air quality.