



Ministry
of Justice

Draft Victims Bill

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of Justice

Draft Victims Bill

Presented to Parliament by the Deputy Prime Minister,
Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

May 2022



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Victims Bill

[PRE-INTRODUCTION]

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A

BILL

TO

Make provision in relation to victims of criminal conduct.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Victims

1 "Victim"

(1) For the purposes of this Act "victim" means a person who has suffered harm as a direct result of—

- (a) being subjected to, or
- (b) witnessing,

criminal conduct.

(2) "Harm" includes—

- (a) physical, mental or emotional harm, and
- (b) economic loss.

(3) "Criminal conduct" means conduct constituting an offence.

(4) In determining whether a person is a victim for the purposes of this Act by virtue of any criminal conduct, it is immaterial that no person has been charged with or convicted of an offence in respect of the conduct.

2 Code of practice for victims

(1) The Secretary of State must issue a code of practice as to the services to be provided to victims by persons appearing to the Secretary of State to have functions relating to—

- (a) victims, or
- (b) any aspect of the criminal justice system.

(2) The code must make provision for services which reflect—

- (a) the principles that victims—
 - (i) should be provided with information to help them understand the criminal justice process;

(ii) should be able to access services which support them (including, where appropriate, specialist services);

(iii) should have the opportunity to make their views heard in the criminal justice process;

(iv) should be able to challenge decisions which have a direct impact on them;

(b) any other matters specified by the Secretary of State in regulations.

(3) The code may restrict the application of its provisions to—

(a) specified descriptions of victims;

(b) victims of specified offences or descriptions of conduct;

(c) specified persons or descriptions of persons appearing to the Secretary of State to have functions of the kind mentioned in subsection (1).

(4) The code may include provision requiring or permitting the services which are to be provided to a victim to be provided to one or more others—

(a) instead of the victim (for example where the victim has died);

(b) as well as the victim.

(5) The code may make different provision for different purposes, including different provision for—

(a) different descriptions of victims;

(b) persons who have different functions or descriptions of functions;

(c) different areas.

(6) The code may not require anything to be done by—

(a) a person acting in a judicial capacity;

(b) a person acting in the discharge of a function of a member of the Crown Prosecution Service which involves the exercise of a discretion.

(7) In this section “specified” means specified in the code.

3 Procedure

(1) Subsections (2) to (7) apply in relation to a code of practice required to be issued under section 2.

(2) The Secretary of State must prepare a draft of the code.

(3) In preparing the draft the Secretary of State must consult the Attorney General.

(4) After preparing the draft the Secretary of State must—

(a) publish the draft;

(b) specify a period during which representations about the draft may be made to the Secretary of State.

(5) The Secretary of State must—

(a) consider in consultation with the Attorney General any representations made to the Secretary of State before the end of the specified period about the draft;

(b) if the Secretary of State thinks it appropriate, modify the draft in the light of any such representations.

(6) After carrying out the duties under subsection (5), the Secretary of State must lay the code before Parliament.

(7) When the code has been laid before Parliament in accordance with subsection (6) the Secretary of State must bring it into operation on such day as the Secretary of State appoints by regulations.

(8) The Secretary of State may from time to time revise a code previously brought into operation under this section.

(9) But the Secretary of State may revise a code under subsection (8) only if it appears to the Secretary of State that the proposed revisions would not result in—

(a) a significant reduction in the quality or extent of the services to be provided under the code, or

(b) a significant restriction in the description of persons to whom services are to be provided under the code.

(10) Subsections (2) to (7) apply to a revised code, except that if the Secretary of State considers that all the revisions are minor the procedure in subsection (12) may be used instead.

(11) Revisions are minor if—

(a) they make corrections or clarifications, or

(b) they are consequential on changes to the law, practice or procedure relating to any aspect of the criminal justice system.

(12) The procedure in this subsection is that the Secretary of State must—

(a) consult the Attorney General about the revised code,

(b) lay the revised code before Parliament, and

(c) when the revised code has been laid before Parliament, bring it into operation on such day as may be appointed by regulations.

4 Effect of non-compliance

(1) If a person fails to perform a duty imposed on that person by a code issued under section 2, the failure does not of itself make that person liable to criminal or civil proceedings.

(2) But the code is admissible in evidence in criminal or civil proceedings and a court may take into account a failure to comply with the code in determining a question in the proceedings.

5 Review of compliance with victims' code

- (1) The elected local policing body for a police area must keep under review how the local criminal justice bodies for the police area are complying with the victims' code in the police area.
- (2) The "victims' code" means the code of practice issued by the Secretary of State under section 2.
- (3) Each local criminal justice body for a police area must—
 - (a) keep under review how it complies with the victims' code in the police area,
 - (b) collect specified descriptions of data about the body's compliance with the victims' code in the police area, and
 - (c) share specified descriptions of such data with other local criminal justice bodies for that police area and the elected local policing body for that area for the purpose of enabling the effective discharge of functions under this section.
- (4) In complying with their duties under subsections (1) and (3), the elected local policing body for a police area and each local criminal justice body for the area must as far as possible ensure that they have taken into account the experiences of victims in the police area.
- (5) Before making regulations under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (6) The Secretary of State must (after consulting such persons as the Secretary of State considers appropriate) issue guidance to elected local policing bodies and local criminal justice bodies about the exercise of their functions under this section.
- (7) The guidance may in particular include provision—
 - (a) about the holding of meetings between elected local policing bodies and local criminal justice bodies, and
 - (b) about the ways in which those bodies may meet the requirement under subsection (4).
- (8) Elected local policing bodies and local criminal justice bodies must have regard to the guidance.
- (9) This section does not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the duties imposed by this section).
- (10) The local criminal justice bodies for a police area are—
 - (a) the chief officer of police for the police area, and
 - (b) each criminal justice body which exercises functions in the police area.
- (11) A "criminal justice body" means—
 - (a) the Crown Prosecution Service;

(b) the Lord Chancellor, in exercising functions under section 1 of the Courts Act 2003 (duty to ensure efficient and effective courts service);

(c) a Minister of the Crown, in exercising functions in relation to prisons (within the meaning of the Prison Act 1952);

(d) a youth offending team established under section 39 of the Crime and Disorder Act 1998;

(e) the Secretary of State, in making probation provision in accordance with arrangements made by the Secretary of State under section 3(5) of the Offender Management Act 2007.

(12) In this section—

“data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“elected local policing body” has the meaning given by section 101 of the Police Act 1996;

“specified” means specified in regulations made by the Secretary of State.

6 Duties to collaborate in the provision of victim support services

(1) The relevant authorities for a police area in England must collaborate with each other in the exercise in that area of their victim support functions.

(2) In particular, the relevant authorities for a police area must—

(a) prepare a strategy for the exercise in that area of their respective victim support functions,

(b) set out in the strategy how they consider they are fulfilling, or intend to fulfil, their duties under subsection (1), and

(c) implement the strategy.

(3) In preparing the strategy the relevant authorities must consult—

(a) persons appearing to the relevant authorities to represent the interests of victims;

(b) persons appearing to the relevant authorities to represent persons providing victim support services;

(c) such other persons as the relevant authorities consider appropriate.

(4) In preparing the strategy the relevant authorities must have regard to—

(a) any assessments they have carried out of the needs of victims,

(b) any assessments they have carried out of the needs of victims who have protected characteristics within the meaning of Part 2 of the Equality Act 2010, and

(c) the victim support services which are available in the police area (whether or not provided by the relevant authorities).

- (5) Once the strategy has been prepared the relevant authorities must—
- (a) publish the strategy,
 - (b) keep the strategy under review, and
 - (c) from time to time prepare a revised strategy.
- (6) Collaboration under this section may include the disclosure of information.
- (7) Subsections (2) to (6) apply to a revised strategy as they apply to the original strategy.
- (8) The Secretary of State must (after consulting such persons as the Secretary of State considers appropriate) issue guidance to relevant authorities about the exercise of their functions under this section.
- (9) The relevant authorities must have regard to any guidance issued under subsection (8) when complying with their duties under this section.
- (10) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).
- (11) In this section—

“data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“victim support functions” means functions relating to the commissioning of victim support services.

7 “Relevant authorities”

- (1) For the purposes of section 6, the relevant authorities for a police area are—
- (a) the local policing body for the police area,
 - (b) an integrated care board established under Part 2 of the Health and Care Act 2022 all or part of whose area falls within the police area, and
 - (c) a local authority all or part of whose area falls within the police area.
- (2) “Local authority” means—
- (a) a county council,
 - (b) a district council for an area for which there is no county council,
 - (c) the Greater London Authority, and
 - (d) the Council of the Isles of Scilly.

8 “Victim support services”

- (1) For the purposes of section 6 “victim support services” means services, other than accommodation-based support, provided to support persons who are victims of—

- (a) domestic abuse,
- (b) a sexual offence, or
- (c) serious violence.

(2) For the purposes of this section a person is a victim of domestic abuse, a sexual offence or serious violence if the criminal conduct by virtue of which they are a victim constitutes domestic abuse, a sexual offence or serious violence.

(3) For the purposes of subsection (1) —

- (a) accommodation-based support has the meaning given by section 57 of the Domestic Abuse Act 2021;
- (b) “domestic abuse” has the meaning given by section 1 of the Domestic Abuse Act 2021;
- (c) “sexual offence” means an offence under the law of England and Wales which is for the time being specified in Schedule 3 to the Sexual Offences Act 2003.

(4) In determining for the purposes of subsection (3)(c) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded.

(5) “Violence” includes —

- (a) violence against property, and
- (b) threats of violence,

but does not include terrorism with the meaning of the Terrorism Act 2000 (see section 1 of that Act).

(6) In considering whether violence amounts to serious violence, the relevant authorities must take into account the following factors —

- (a) the maximum penalty which could be imposed for the offence (if any) involved in the violence, and
- (b) the impact of the violence on any victim.

9 Guidance about independent advisors

(1) The Secretary of State must issue guidance about —

- (a) independent domestic violence advisors;
- (b) independent sexual violence advisors.

(2) In this section —

“independent domestic violence advisor” means a person who provides services to support victims of domestic abuse and their children;

“independent sexual violence advisor” means a person who provides services to support victims of sexual offences.

(3) The guidance may include provision about—

(a) the role of such advisors;

(b) how such advisors, and other persons having functions relating to—

(i) victims, or

(ii) any aspect of the criminal justice system,

should work together;

(c) appropriate training and qualifications for such advisors.

(4) The guidance about independent domestic violence advisors may in particular make provision about the provision of services to primary victims of domestic abuse and their children.

(5) The guidance about independent sexual violence advisors may in particular make provision about the provision of services to primary victims of sexual offences.

(6) Any person having functions relating to—

(a) victims, or

(b) any aspect of the criminal justice system,

must have regard to the guidance.

10 Interpretation of section 9

(1) For the purposes of section 9 a person—

(a) is a victim of domestic abuse, if the criminal conduct by virtue of which they are a victim constitutes domestic abuse within the meaning of section 1 of the Domestic Abuse Act 2021, and

(b) is a primary victim of domestic abuse, if the person is a victim of domestic violence by virtue of being subjected to such conduct.

(2) For the purposes of section 9 a person—

(a) is a victim of a sexual offence, if the criminal conduct by virtue of which they are a victim constitutes an offence within subsection (3), and

(b) is a primary victim of a sexual offence, if the person is a victim of a sexual offence by virtue of being subjected to such conduct.

(3) The offences referred to in subsection (2)(a) are an offence under the law of England and Wales which is for the time being specified in Schedule 3 to the Sexual Offences Act 2003.

(4) In determining for the purposes of subsection (3) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded.

11 Commissioner for Victims and Witnesses

(1) The Domestic Violence, Crime and Victims Act 2004 is amended as follows.

(2) In section 49 (functions of Commissioner for Victims and Witnesses)—

(a) omit subsection (1)(c) (duty to keep victims' code under review);

(b) in subsection (2)(c), after "remit" insert "(whether or not made by way of inclusion in the report prepared under subsection (4))";

(c) after subsection (4) insert— "(4A) A report prepared under subsection (4) may include provision making recommendations to any authority within the Commissioner's remit.";

(d) after subsection (5) insert— "(5A) The Commissioner must arrange for each report prepared under subsection (4) to be laid before Parliament."

(3) After section 49 insert—

"49A Duty to respond to Commissioner's recommendations

(1) This section applies where the Commissioner publishes a report under section 49(4) containing recommendations in relation to an authority within the Commissioner's remit.

(2) The relevant person must prepare comments on the report.

(3) The relevant person is—

(a) where the authority is a government department in the charge of a Minister, the Minister, or

(b) in any other case, the authority.

(4) The comments must include, in respect of each recommendation made in the report, an explanation of—

(a) the action which the relevant person has taken, or proposes to take, in response to the recommendation, or

(b) why the relevant person has not taken, or does not propose to take, any action in response.

(5) The relevant person must arrange for the comments to be published in such manner as the person considers appropriate.

(6) The comments must be published before the end of the period of 56 days beginning with the day on which the report is published.

(7) The relevant person must send a copy of anything published under subsection (6) to—

(a) the Commissioner, and

(b) (unless the authority is a government department in the charge of a Minister) the Secretary of State."

(4) In Schedule 9 (authorities within Commissioner’s remit) —

(a) for paragraphs 1VA to 8B substitute —

“1 A government department in the charge of a Minister.”;

(b) after paragraph 11 insert —

“11A A local policing body.”;

(c) after paragraph 29 insert —

“Inspectorates

29A Her Majesty’s Inspectors of Constabulary.

29B Her Majesty’s Chief Inspector of the Crown Prosecution Service.

29C Her Majesty’s Chief Inspector of Prisons.

29D Her Majesty’s Inspectorate of Probation for England and Wales.”

12 Joint inspections relating to victims

(1) In Schedule A1 to the Prisons Act 1952 (Her Majesty’s Chief Inspector of Prisons), at the end of paragraph 5 insert —

“(7) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction require a joint inspection programme to include provision for the inspection, at specified times, of specified matters relating to the experiences and treatment of victims.

(8) In sub-paragraph (7) —

“specified” means specified in the direction; “victim” has the meaning given by section 1 of the Victims Act 2022.”

(2) In Schedule 4A to the Police Act 1996 (Her Majesty’s Inspectors of Constabulary), at the end of paragraph 5 insert —

“(7) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction require a joint inspection programme to include provision for the inspection, at specified times, of specified matters relating to the experiences and treatment of victims.

(8) In sub-paragraph (7) —

“specified” means specified in the direction;

“victim” has the meaning given by section 1 of the Victims Act 2022.”

(3) In the Schedule to the Crown Prosecution Service Inspectorate Act 2000 (Her Majesty’s Chief Inspector of the Crown Prosecution Service), at the end of paragraph 5 insert —

“(7) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction require a joint inspection programme to include provision for the inspection, at specified times, of specified matters relating to the experiences and treatment of victims.

(8) In sub-paragraph (7)—

“specified” means specified in the direction;

“victim” has the meaning given by section 1 of the Victims Act 2022.”

(4) In Schedule 1A to the Criminal Justice and Court Services Act 2000 (inspectorate of probation for England and Wales), at the end of paragraph 5 insert—

“(7) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction require a joint inspection programme to include provision for the inspection, at specified times, of specified matters relating to the experiences and treatment of victims.

(8) In sub-paragraph (7)—

“specified” means specified in the direction;

“victim” has the meaning given by section 1 of the Victims Act 2022.”

The Parliamentary Commissioner for Administration

13 Parliamentary Commissioner for Administration

(1) The Parliamentary Commissioner Act 1967 is amended as follows.

(2) In section 5(1) (matters subject to investigation)—

(a) for paragraph (a) substitute—

“(a) a written complaint is duly made by a member of the public, who claims to have sustained injustice in consequence of maladministration in connection with the action so taken, to—

(i) if, in the complainant’s opinion, the complaint relates to the complainant’s experience as a victim, the Commissioner, or

(ii) in any other case, a member of the House of Commons, and”;

(b) in paragraph (b) at the beginning insert “in a case falling within paragraph (a)(ii),”.

(3) In section 5(1A)—

(a) for paragraph (a) substitute—

“(a) a written complaint is duly made by a member of the public, who claims that a person has failed to perform a relevant duty owed by that person to the member of the public, to—

(i) if, in the complainant's opinion, the complaint relates to the complainant's experience as a victim, the Commissioner, or

(ii) in any other case, a member of the House of Commons, and"

(b) in paragraph (b) at the beginning insert "in a case falling within paragraph (a)(ii),".

(4) After section 5(9A) insert—

"(9B) In this section, "victim" has the meaning given by section 1 of the Victims Act [2022]."

(5) In section 6 (complaints)—

(a) after subsection (1A) insert—

"(1B) A complaint under section 5(1)(a)(i) or 5(1A)(a)(i) may also be made by a person (for example, a member of the House of Commons) who is authorised to act on behalf of the person aggrieved.";

(b) in subsection (2)—

(i) after "for himself" insert "or where subsection (1B) applies to authorise another person to act on his behalf,";

(ii) omit the words from "but except" to the end;

(c) after subsection (2) insert—

"(2A) Except as provided by subsections (1B) and (2), a complaint may not be entertained under this Act unless made by the person aggrieved.";

(d) in subsection (3)—

(i) after "Commons" insert ", or where the complaint is made under section 5(1)(a)(i) or 5(1A)(a)(i), the Commissioner";

(ii) after "but" insert "in either case".

(6) In section 10 (Commissioner's reports)—

(a) in subsection (1) for the words from "member of the" to "appropriate)" substitute "person who made the complaint";

(b) after subsection (1) insert—

"(1A) Where the person who made the complaint is not a member of the House of Commons the Commissioner may, with the consent of the person who made the complaint, send the report or statement to such member of that House as the Commissioner considers appropriate.";

(c) in subsection (5) for paragraph (c) substitute—

"(c) the publication of a report or statement by the Commissioner—

(i) under subsection (1), to the person who made the complaint, or

(ii) under subsection (1A), to a member of the House of Commons;”.

General provisions

14 Consequential provision

Chapter 1 of Part 3 of the Domestic Violence, Crime and Victims Act 2004 is repealed.

15 Regulations

(1) Regulations under this Act—

(a) may make different provision for different purposes;

(b) may include supplementary, incidental, saving or transitional provisions.

(2) Any power of the Secretary of State to make regulations under this Act is exercisable by statutory instrument.

(3) A statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) This section does not apply to regulations under section 17.

16 Extent

(1) This Act extends to England and Wales only, subject to subsection (2).

(2) An amendment or repeal made by this Act has the same extent as the provision to which it relates.

17 Commencement

(1) The following provisions of this Act come into force on the day on which this Act is passed—

(a) section 1;

(b) sections 14 to 18.

(2) The following provisions of this Act come into force at the end of the period of 2 months beginning with the day on which this Act is passed—

(a) sections 9 and 10;

(b) section 11.

(3) The following provisions of this Act come into force on such day as the Secretary of State may by regulations appoint—

(a) sections 2 to 8;

(b) section 12;

(c) section 13.

(4) Different days may be appointed for different purposes.

(5) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.

(6) The power to make regulations under subsection (5) includes power to make different provision for different purposes.

(7) Regulations under this section are to be made by statutory instrument.

18 Short title

This Act may be cited as the Victims Act 2022.

ANNEX A VICTIMS BILL

EXPLANATORY NOTES

What These Notes Do

These Explanatory Notes relate to the Annex A Victims Bill as published in Draft on 25 May 2022 (Bill CP687).

These Explanatory Notes have been Ministry of Justice in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.

These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Overview of the Bill

- 1 The purpose of this Bill is to improve the end-to-end support for victims of crime so that they get the support needed to cope and recover from the impact of crime and feel able to engage and remain engaged in the criminal justice system. Together the measures will amplify victims' voices in the criminal justice process, strengthen transparency and accountability of criminal justice agencies and improve support for victims.
- 2 Clause 1 creates a definition of a victim for the purposes of this Bill.
- 3 Clauses 2 to 4 contain measures requiring the Secretary of State to issue a code of practice (Victims' Code) on the standards of services that must be provided to victims of crime and set out the procedure for doing so. In particular they:
 - set out four key principles that must be reflected in the provision of services set out in the Victims' Code, and provide a power for the Secretary of State to set out other matters which must be reflected in the Victims' Code in regulations;
 - make provision for the Victims' Code to set out who is entitled to receive services and any restrictions;
 - require consultation on changes to the Victims' Code, except where these are considered to be minor; and
 - Prevent any changes to the Victims' Code which would significantly reduce the services which must be provided to victims of crime.
- 4 Clause 5 contains measures to enhance scrutiny of the service victims receive. In particular, it:
 - places a duty on specified criminal justice bodies within a police area (police, CPS, courts, prisons, probation and Youth Offending Teams) to keep under review their own compliance with the Code, and enhance the role of Police and Crime Commissioners (PCCs) by placing them under an overarching duty to keep under review the bodies' compliance with the Victims' Code;
 - strengthens the mechanisms for reviewing compliance with the Code through improved data collection and sharing and creating a duty for the specified criminal justice bodies and PCCs to take into account victims' experiences.
- 5 Clauses 6-10 contain measures to improve victim support services. In particular, they:
 - place a duty on specified authorities (including local authorities, Police and Crime Commissioners and Integrated Care Boards) to collaborate with each other when commissioning victim support services in order to facilitate more holistic and better coordinated victim support services;
 - define Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs), introduce guidance setting out recommended minimum standards and best practice for ISVAs and IDVAs, and place a duty on ISVAs, IDVAs and other persons whose functions relate to victims of criminal conduct, or any aspect of the criminal justice system, to have due regard to this guidance, and how this relates to their role.
- 6 Clauses 11 – 13 contain further measures to enhance oversight of the services victims receive. In particular, they:
 - amend the role of the Victims' Commissioner (VC) to require their annual report to be laid in Parliament and require that agencies respond to recommendations made in the VC's annual report, and to remove the current duty on the VC to keep under review the operation of the Victims' Code;
 - give specified Ministers the power to direct regular joint thematic inspections by criminal justice inspectorates on victims' experiences to ensure a clearer and sharper focus on delivering an

improved experience for victims; and

- remove the need for a victim of crime to raise a complaint via an MP before it can be escalated to the Parliamentary Commissioner for Administration and Health Services Ombudsman (PHSO).

Policy background

- 7 In 2019/20, it was estimated that 6.6% of 10-15-year olds and around one in five adults (19.3%) in England and Wales were victims of crime.¹
- 8 In 2019, the Conservative Party's manifesto committed to pass a Victims Law which would guarantee victims' rights and the level of support they can expect.
- 9 In December 2021, the Government launched a public consultation "Delivering justice for victims: A consultation on improving victims' experiences of the justice system" to inform development of this law. This consulted broadly on how to improve what victims can expect from the criminal justice system and how to improve aspects of victim support services. The consultation ran for eight weeks and received over 600 responses. Its aim was to better understand the experiences of victims and harness expertise from frontline practitioners and experts to ensure that the Bill and accompanying measures improve support for victims throughout the criminal justice system.
- 10 The Government's response to the consultation set out the legislative and non-legislative measures planned to improve victims' experiences of the justice system. The Victims Bill will facilitate a more consolidated framework to better support victims through the following legislative measures:
 - placing the overarching principles of the Victims' Code in primary legislation
 - enhancing local oversight of delivery of the Victims' Code through better data collection and an enhanced role of Police and Crime Commissioners (PCCs)
 - introducing a duty on PCCs, local authorities and Integrated Care Boards to collaborate locally, to facilitate more holistic and better coordinated victim support services
 - placing Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs) on a statutory footing by requiring persons who work with victims of criminal conduct, or any aspect of the criminal justice system to have regard to guidance about how to work with them.
 - updating the role of the Victims' Commissioner, including a requirement for departments and agencies with a responsibility to meet the requirements under the Victims' Code to respond to relevant annual report recommendations
 - bolstering national oversight through a requirement for regular joint thematic inspections on victims' experiences
 - removing the need for a victim of crime to raise a complaint via an MP before it can be escalated to the PHSO
- 11 The draft Bill is being published for pre-legislative scrutiny. The Government will consider the feedback from the Committee before introducing the final Bill to Parliament.

The Victims' Code

- 12 Under section 32 of the Domestic Violence, Crime and Victims Act 2004 the Secretary of State must issue a code of practice for services that must be provided to victims of criminal conduct by those persons working in the criminal justice system or having some function related to it. The first Code of Practice for Victims of Crime (Victims' Code) came into effect in 2006. It has been updated several times. The latest revised Victims' Code, which was laid before Parliament in November 2020 and came into force on 1 April 2021, sets out 12

¹ For the April 2019 to March 2020 period. Crime in England and Wales: Appendix tables, summary table 2 and table A11 – Office for National Statistics, <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesappendixtables>

overarching services which eligible victims are entitled to receive and are referred to as 'rights' in the Code.

- 13 "Delivering justice for victims: A consultation on improving victims' experiences of the justice system" consulted on proposals to place the key principles of the Code in primary legislation and the detail of the Code in regulations and guidance, with the intent of raising the profile of the Victims' Code.
- 14 Respondents to the consultation were in favour of these proposals. This Bill will repeal and restate the Code provisions of the 2004 Act and will set out in primary legislation the key principles that must be reflected in the services provided for by the Victims' Code.
- 15 The Bill will also create a power for the Secretary of State to make regulations which may stipulate further matters for which the Victims' Code should make provision. The intention is that the regulations will set out the key entitlements and require the Victims' Code to make provision for services in respect of these. By placing these entitlements in regulations, rather than on the face of the Bill, flexibility is retained to review and amend provision about the entitlements so as to ensure that these continue to best serve victims over time.
- 16 The Victims' Code will remain as a statutory code which will set out in detail the services that must be provided to victims of crime. The Code will need to reflect the key principles as set out in the Bill and the further detail provided for in the regulations. The Code will explain who is entitled to access services and provide information about how they will be delivered. Although the Victims' Code requires a public consultation before any changes can be made to it, this Bill will allow for changes that the Secretary of State deems to be minor changes, such as clarifications or corrections, to be made to the Victims' Code without consultation.

Victim support services

- 17 Victims are likely to experience a range of impacts following a crime and may require advice, recovery and support services, which could be medical, therapeutic, practical and/or emotional. The Victims' Code sets out the entitlement for victims to be referred to support services.
- 18 The Government consulted on whether more formalised collaboration structures could help to improve service provision for victims of certain crimes (domestic abuse, sexual violence, and other serious violence), because currently there is no framework or structure that brings together the range of public sector bodies who provide support services to victims outside of safe accommodation.
- 19 This Bill will place a new duty on local authorities, Police and Crime Commissioners (PCCs) and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, sexual abuse and serious violence (excluding services for victims living in safe accommodation, which are covered by a separate legislative framework in Part 4 of the Domestic Abuse Act 2020), to facilitate more holistic and coordinated support services.
- 20 It will require them to prepare, publish and implement a joint local strategy to set out the aims and approach for commissioning relevant services from each agency and an explanation of how the duty requirements have been met. When preparing the strategy, they will be required to have regard to particular issues and consult certain groups, set out in more detail below. This is to ensure that strategies are informed by relevant needs assessments, needs of victims who may experience barriers to using generic support services, existing local and national provision, and victims' voices and sector expertise.
- 21 This will be underpinned by guidance to address practical issues in relation to carrying out this duty, such as local partnership structures that may work for collaboration and information to support strategy production and non-legislative oversight structures to consider the published strategies and solutions to local challenges.

Independent Advisors

- 22 Depending on their varying needs and experiences, victims of domestic and sexual abuse may require a range of support which, if appropriate, can be provided by Independent Domestic Violence Advisors (IDVAs) and Independent Sexual Violence Advisors (ISVAs). These advisors provide support to help victims cope, recover and engage with the criminal justice system (if they choose to do so). The type and level of support provided by these advisors varies from case to case depending on the needs of the individual and their situation.
- 23 The "Delivering justice for victims: A consultation on improving victims' experiences of the justice system", consulted on how to strengthen these victim advocate roles, with a focus on ISVAs and IDVAs, looking into

how to promote better join-up across agencies, reviewing the standards they operate under, alongside guidance and frameworks.

- 24 In response to the consultation feedback, this Bill will create a definition of ISVAs and IDVAs. The aim of this definition is to ensure greater consistency across the sector, while ensuring innovation and protecting specialisms across these roles as well as promoting increased awareness of ISVAs and IDVAs by victims and those who work alongside them.
- 25 Linked to this definition, the Bill will also create a duty for the Secretary of State to issue guidance about ISVAs and IDVAs. This guidance will improve clarity on the functions of these roles, how they work with victims with specific needs, and how other individuals and agencies can best work with ISVAs and IDVAs to support victims in a holistic way.
- 26 A duty will therefore also be created for ISVAs, IDVAs, and those that have a function relating to victims of criminal conduct, or any aspect of the criminal justice system, to have due regard to this guidance, fostering greater collaboration, and working effectively together to support victims.

The role of the Victims' Commissioner

- 27 The Secretary of State is required to appoint a Commissioner for Victims and Witnesses, as set out in Clause 48 of the Domestic Violence, Crime and Victims Act 2004. The consultation consulted on the most critical functions for an effective Victims' Commissioner.
- 28 This Bill will amend the role of the Victims' Commissioner to aid promotion of the interests of victims and witnesses in line with the responses to the consultation, and to ensure that the role is aligned with the responsibilities of other agencies and organisations that have a role in overseeing the treatment of victims.
- 29 This Bill will make provision for PCCs and agencies to monitor data on Victims' Code compliance and victim feedback. To reflect this, the Bill will also transfer the power to keep under review the operation of the Victims' Code from the Victims' Commissioner to PCCs. The Victims' Commissioner will continue to play a vital role in improving Code compliance nationally through their other functions, for example in publishing reports and making recommendations, advising Ministers and through their role on the National Criminal Justice Board. The Victims' Commissioner will also retain the explicit power to 'make recommendations around changes to the Code', as set out in statute.
- 30 To ensure the ongoing visibility of the Victims' Commissioner and increase parliamentary and public focus on victims' experiences, the Bill will create a requirement for the Victims' Commissioner's annual report to be laid before Parliament.
- 31 The Bill will also place a duty on specified relevant criminal justice agencies and Government departments to respond to any recommendations made to them in the Victims' Commissioner's annual report within 56 days of it being published. The response will have to set out the actions taken or proposed actions in response to the recommendation, or set out why the agency has not taken, or does not propose to take, action in response to the recommendation. These responses must be published, and a copy sent to the Victims' Commissioner and the Secretary of State.

Monitoring the Victims' Code

- 32 The Bill will place a duty on relevant criminal justice bodies to collect data and keep their compliance with the Victims' Code under review at a local level. This duty will help ensure there is effective and consistent oversight, providing a clear picture of compliance with the Code for criminal justice bodies to drive up standards on the service to victims. This requirement will apply to the following criminal justice bodies:
 - The Police
 - The Crown Prosecution Service (CPS)
 - Her Majesty's Courts and Tribunals Service (HMCTS)
 - Her Majesty's Prison and Probation Service (HMPPS)
 - Youth Offending Teams.

- 33 This Bill will transfer the function of reviewing the operation of the Code from the Victims' Commissioner to PCCs by placing a duty on PCCs to keep under review relevant criminal justice bodies' compliance with the Code. The Bill contains a power to issue guidance in respect of the duties placed on the criminal justice bodies and PCCs under this section.
- 34 The Bill will also place a duty on each of the relevant criminal justice bodies and PCCs to ensure they take into account the experiences of victims as far as it is possible to do so in order to contextualise and add to the Code compliance data.
- 35 In order to exercise these functions, the Bill will place a duty on the criminal justice bodies to share the data obtained pursuant to this section with one another and with PCCs in order to support them in their duties to keep compliance with the Victims Code under review.

Joint thematic inspections of victims' issues

- 36 The criminal justice inspectorates all have a responsibility for assessing the efficiency and effectiveness of the criminal justice agencies they have responsibility for overseeing. Each inspectorate currently has its high-level functions set out in differing pieces of legislation. This legislation includes provision on how the inspectorates act jointly. This broadly sets out that the inspectors shall act together to prepare a joint inspection programme setting out what inspections they propose to carry out to effectively discharge their functions. It also states that the Home Secretary, Lord Chancellor and the Attorney General may jointly direct when a joint inspection programme is prepared and what form it should take. It is envisaged that the inspectorates will continue to agree and set out their proposed joint inspection programme in a Joint Business Plan, which typically covers a period of two years.
- 37 The inspectorates do already work together effectively to undertake joint thematic inspections. However, the Government wants to ensure that their programme of work regularly includes a focus on victims' issues. Therefore, the Bill will introduce the ability for relevant Ministers to direct joint thematic inspections by criminal justice inspectorates to assess the experiences and treatment of victims throughout the entire criminal justice process. The policy intention of these joint thematic inspections is to make inspectorates more effective at: identifying key issues in relation to victims across the whole system; understanding the cause of these issues and the best ways to address them and making recommendations that will ensure improvements in the service provided to victims.
- 38 This requirement will apply to the following inspectorates:
- HMI Constabulary and Fire and Rescue Services (HMICFRS) who hold responsibility for assessing the effectiveness of police forces and fire and rescue services
 - HM Crown Prosecution Service Inspectorate (HMCPPI) who hold responsibility for assessing the effectiveness of the CPS and the Serious Fraud Office
 - HMI Probation (HMIP) who inspect probation and youth offending services
 - HMI Prisons (HMIP) who inspect prisons and young offender institutions.
- 39 The Bill will create a new power for the Secretary of State (which in practice is envisaged to be the Secretary of State for Justice (if relevant in addition to the Lord Chancellor) and Home Secretary), Lord Chancellor and Attorney General acting jointly, to require any of the above inspectorates to carry out a joint inspection assessing victims' experiences and treatment. Under this power, it can be specified what key issues should be considered whilst carrying out that inspection and when this should be carried out. It is intended that the direction will specify only for the inspection to take place within a given joint inspection business plan cycle.
- 40 A joint victims' inspection can also include an inspection of HM Courts and Tribunals Service (HMCTS) in relation to their criminal jurisdiction and victims as long as the inspection includes matters other than those engaging judicial independence.

Removal of MP filter in relation to victims' complaints referred to the Parliamentary Commissioner for Administration

- 41 The Parliamentary and Health Service Ombudsman (PHSO) combines the two statutory roles of Parliamentary Commissioner for Administration (PC) and Health Service Commissioner for England. The PC can investigate and

make final decisions on, all complaints made against a specified set of government organisations.

- 42 The Bill will remove the need to refer a complaint via a person's MP for any victim of crime making a complaint to the PC and replace it with a dual access system. Under this process, a complaint can be made directly to the PC by:
- The person affected,
 - A person authorised by them (including an MP), or
 - Where they are deceased or otherwise unable to make the complaint or authorise another person to do so, their personal representative or another person (e.g. a family member) the PC assesses as suitable to represent them.
- 43 These measures will continue to allow for the affected person's MP to be kept informed of the results of an investigation or a statement of the PC's reasons for not conducting an investigation, even if the complaint was not made by the MP on their behalf, but only if the affected person has consented to the report or statement being sent to an MP. Where the PC makes a finding that there has been maladministration or a failure to perform a relevant duty, the PC may lay a special report before Parliament. This is consistent with the PC's function, which is to assist Parliament in its scrutiny role.
- 44 Removal of the 'MP filter' will be an exception for victims of crime, for whom approaching an MP to share a potentially traumatic experience is more likely to be a barrier to making a complaint. This does not constitute an indication that the Government intends to remove the MP filter more widely.

Legal background

Clauses 2-4

- 45 The legislation providing for a code of practice (Victims' Code) and the procedure for doing so is set out in primary legislation. The current provisions are sections 32 to 34 of the Domestic Violence, Crime and Victims Act 2004. This Bill restates these provisions in the 2004 Act in addition to setting out the key principles that must be reflected in the provision of services set out in the Victims' Code and giving the Secretary of State a power to make regulations setting out further matters which the Victims' Code must reflect. It also includes a new procedure for making minor amendments to the Victims' Code.

Clause 11

- 46 The legislation relating to the Commissioner for Victims and Witnesses is set out in primary legislation. The current provisions are sections 48 to 54 of the Domestic Violence, Crime and Victims Act 2004. This Act will continue to be the main Act dealing with the Victims' Commissioner, and this Bill inserts new provisions (see clause 11) into the 2004 Act.

Clause 12

- 47 The relevant legislation relating to joint inspections in respect of the following inspectorates is set out in primary legislation as follows:
- Police Act 1996 sections 54-56 and Schedule 4A in respect of HMI Constabulary and Fire and Rescue Services
 - Crown Prosecution Service Inspectorate Act 2000 sections 1 and 2 and the Schedule
 - Criminal Justice and Court Services Act 2000 sections 6 and 7 and Schedule 1A
 - Prison Act 1952 section 5A and Schedule A1.

- 48 These Acts will continue to be the main Acts dealing with inspectorate powers, and this Bill inserts new provisions (see clause 12) into the schedules of the above Acts.

Clause 13

- 49 The legislation relating to the PC is set out in primary legislation. The relevant provisions for the purposes of this Bill are sections 5, 6 and 10 of the Parliamentary Commissioner Act 1967. This Act will continue to be the main Act dealing with complaints referred to the PC in relation to government departments, and this Bill inserts new provisions (see clause 13) into the 1967 Act.

Territorial extent and application

- 50 Clause 16 sets out the territorial extent of the Bill (the jurisdiction of which the law forms a part). The provisions of the Bill extend to England and Wales **(with the exception of Clause 13 where amendments to the existing system for victims' complaints to the Parliamentary Commissioner will apply UK-wide for complaints within the Parliamentary Commissioner's jurisdiction)**. Clauses 1-5 and 9-12 will apply to England and Wales. Clauses 6-8 will apply to England only.
- 51 It is the view of the UK Government that clauses 9 and 10 fall within the legislative competence of the National Assembly of the Senedd Cymru. Conversations are therefore on-going with the Welsh Government over securing Legislative Consent Motion support for these clauses
- 52 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Meaning of “victim”

Clause 1: “Victim”

- 53 Clause 1 defines a “victim” for the purpose of the Bill.
- 54 Subsection (1) defines a victim as a person who has suffered harm as a result of being subjected to or witnessing criminal conduct. Subsection (3) states that criminal conduct means conduct that could be prosecuted under criminal law.
- 55 Subsection (2) defines harm as including physical, mental or emotional harm and economic loss.
- 56 Subsection (4) provides that a person can be a victim of criminal conduct for the purposes of this Section, irrespective of whether or not an offender is charged or convicted. This ensures that the provisions of the Code issued under clause 2 can require the provision of services to victims at all stages of the criminal justice process and to victims of offences in respect of which no criminal proceedings are eventually brought or where criminal proceedings result in a not-guilty verdict.

The Victims’ Code

Clause 2: Code of practice for victims

- 57 Clause 2 restates, with amendments, the provisions of section 32 of the Domestic Violence, Crime and Victims Act 2004 (The 2004 Act) that relate to issuing a Code of Practice (subsection (1)) in respect of the services provided to victims of crime by persons who have functions relating to victims or the criminal justice system as a whole.
- 58 Subsection (2) inserts a new clause into the re-stated provisions of the 2004 Act stating the key principles that must be reflected in the services provided under the Victims’ Code.
- 59 These principles are that victims of criminal conduct should:
- be provided with information to help them understand the criminal justice process;
 - be able to access services which support them;
 - have the opportunity to make their views heard in the criminal justice process; and
 - be able to challenge decisions which have a direct impact on them.
- 60 Subsection (2) also gives the Secretary of State a power to make regulations specifying any other matters which must be reflected in the Code. Subsections (3)-(5), as restated from the 2004 Act allow the Code, among other things, to:
- differentiate between different types of victims, for example so that particularly vulnerable victims might receive a faster service, or a service tailored to their needs;
 - benefit persons other than the victim, such as the relatives of deceased victims or parents of juveniles;
 - allow for regional variations in the way that services are provided to victims so that the code can reflect local practices.
- 61 Subsection (6) provides that the Code may not require anything to be done by a person acting in a judicial capacity or by a member of the Crown Prosecution Service when exercising a discretion.

Clause 3: Procedure

- 62 Clause 3 restates the procedure for issuing and amending the Code as set out under section 33 of the Domestic Violence, Crime and Victims Act 2004. However, historic references to the Secretary of State for Justice and the

Secretary of State for the Home Department have been amended to refer instead to “the Secretary of State”, which is defined in the Interpretation Act 1978 as meaning “one of Her Majesty’s Principal Secretary of State”. In practice this power is expected to be exercised by the Secretary of State for Justice acting in consultation with the Secretary of State for the Home Department.

- 63 Subsections (10)-(12) create a new secondary procedure for making amendments to the Victims’ Code which can be used where the Secretary of State considers the revisions to be minor. Such amendments can be made without a public consultation and include corrections, clarifications and revisions which reflect changes to the law or practice or procedure of the criminal justice system. Under this procedure, the Secretary of State must consult the Attorney General; lay a revised code before Parliament and stipulate by order when the revised Victims’ Code will come into force.

Clause 4: Effect of non-compliance

- 64 Clause 4 restates section 34 of the Domestic Violence, Crime and Victims Act 2004 and provides that a failure to comply with the Code does not, in itself, give rise to any liability to criminal or civil proceedings.

Oversight of the treatment of victims

Clause 5: Review of compliance with Victims’ Code

- 65 Clause 5 uses the definition “elected local policing body” to define Police and Crime Commissioners (PCCs). “Elected local policing body” has the meaning given by section 101 of the Police Act 1996, namely; (a) a police and crime commissioner, and (b) the Mayor’s Office for Policing and Crime. This is in contrast to the Clause 6 duty which applies to “local policing bodies”; the difference being that “elected local policing bodies” does not include the Common Council for the city of London Police area. This is because the Clause 5 duties will be discharged within PCC-chaired Local Criminal Justice Boards (LCJB). The city of London does not have its own LCJB, but is instead included within the London Criminal Justice Board. In addition, when criminal justice bodies break their data down to force area, London includes both City of London and the metropolitan police area. This approach has been confirmed as appropriate by the Association of Police and Crime Commissioners and the Home Office. For the purposes of Clause 5, elected local policing bodies are referred to hereafter as PCCs.
- 66 Clause 5 places a duty on PCCs and local criminal justice bodies to review compliance with the Victims’ Code. The duty is placed on local criminal justice bodies so as to enables PCCs to take the role of overseeing compliance with the Victims’ Code within each police area.
- 67 Subsection (1) places a duty on PCCs in each police area to keep under review how the local criminal justice bodies for the police area are complying with the Victims’ Code.
- 68 Subsection (3) places a duty on local criminal justice bodies for a police area to keep under review how they comply with the Victims’ Code, including placing specific duties on them to collect and share specified descriptions of data about the body’s compliance with the victims’ code with each other and with PCCs.
- 69 Subsections (3)(b) and (c), together with subsection (9), state that the criminal justice bodies’ duty to disclose information is limited to the disclosure of information required to enable the effective discharge of functions under this section and that duty does not require disclosure in contravention of the data protection legislation.
- 70 Together with subsection (12), subsections 3(b) and (c) create a power for the Secretary of State to specify in regulations the descriptions of data that should be collected and shared.
- 71 Subsection (4) places a duty on each local criminal justice body and PCCs to take into account the experiences of victims in the area as far as it is possible to do so in order to keep under review their compliance with the Victims’ Code. This may include information collected by the bodies themselves or from elsewhere and may require the collection of new information where this is not available from existing sources.
- 72 Subsection (5) places a duty on the Secretary of State to consult such persons (if any) as the Secretary of State considers appropriate before making regulations. This does not create a statutory duty to conduct a public consultation and the nature and extent of consultation required is therefore left to the discretion of the Secretary of State. Subsection (6) requires the Secretary of State to issue guidance about how local criminal justice bodies and PCCs are to exercise their functions under this section, including the duties set out above to keep under review compliance with the Victims’ Code and to take into account information about the

experiences of victims in the area. The Secretary of State is required to consult such persons (if any) as the Secretary of State considers appropriate before issuing guidance. This does not constitute a statutory duty to conduct a public consultation and the nature and extent of consultation required is therefore left to the discretion of the Secretary of State.

- 73 Subsection (7) sets out a non-exhaustive list of matters for which the guidance will make provision including the holding of meetings between elected local policing bodies and local criminal justice bodies.
- 74 Subsections (8), (10) and (11) list the various criminal justice bodies who must have regard to the guidance under subsection (6). Some of the references are to Ministers, because legislation confers the relevant functions on Ministers, and they are then delegated to officials and public bodies. In practice the criminal justice bodies will be the police, the Crown Prosecution Service, Her Majesty's Courts and Tribunals Service, Her Majesty's Prison and Probation Service, and Youth Offending Teams

Victim support services

Clause 6: Duties to collaborate in the provision of victim support services

- 75 Subsection (1) places a duty on a number of authorities (as defined in Clause 7) working in a police area in England (the area for which a Police and Crime Commissioner is responsible as listed in schedule 1 Police Act 1996, as well as the metropolitan police district and the City of London police area) to collaborate when exercising their existing victim support functions. "Victim support functions" is defined in subsection (12) and is intended to describe the existing functions undertaken by the relevant authorities in relation to the commissioning and provision of victim support services. This duty will not include new requirements to commission services. Victim support services is defined in Clause 8 – see further information below).
- 76 Subsection (2) provides that this duty includes a requirement that the relevant authorities in a police area work together to prepare and implement a joint local strategy to set out the aims and approach for commissioning relevant services, as well as setting out how local areas are meeting the duty requirements.
- 77 Subsection (3) requires the relevant authorities to seek the views of those appearing to them to represent the interests of victims; those providing victim support services; and others as they consider appropriate (for example, educational authority for the area). Consultation with these persons will provide the relevant authorities with valuable insight to inform the preparation and implementation of local strategies. This does not create a statutory duty to conduct a public consultation and the nature and extent of consultation required is therefore left entirely to the discretion of the relevant authorities.
- 78 Subsection (4) requires the relevant authorities to consider the following to inform development of the strategy: relevant needs assessments (which may be carried out as part of existing commissioning processes); the particular needs of those with protected characteristics which mean that they may experience barriers to using generic support services (such as children, lesbian, gay, bisexual and transgender (LGBT) victims, ethnic minority victims, deaf or disabled victims, and victims with specific needs due to their sex); existing local and national provision (in order to be aware of what is already available to victims in their local area and avoid duplication).
- 79 Subsection (5) puts a requirement on the relevant authorities to publish the strategy, keep the strategy under review and revise it from time to time.
- 80 Subsection (6) is intended to ensure that the relevant authorities consider whether sharing information may assist them in the effective discharge of functions under this section. As subsection (10) and (11) make clear this does not require information to be disclosed if the disclosure would contravene the data protection legislation, but it clarifies the lawful basis for disclosure under that legislation.
- 81 Subsection (7) ensures that the duties that apply to the preparation of the initial strategy also apply to the preparation of a revised strategy.
- 82 Subsection (8) places the Secretary of State under a duty to issue guidance to the relevant authorities on how to carry out their obligations under this duty; and subsection (9) places the relevant authorities under a duty to have regard to any such guidance. The purpose of this guidance is to support the relevant authorities in discharging their functions under Clause 6, and it will advise on issues such as local partnership structures that may work for collaboration and how joint activity may be convened in practice (such as through a convening

role by PCCs), alongside information to support strategy production. Before issuing any guidance, the Secretary of State must consult persons they consider appropriate (if any), which is expected to include interested stakeholders and practitioners to accurately reflect what further explanation and practical guidance may be beneficial.

Clause 7: “Relevant authorities”

- 83 Clause 7 sets out which authorities will be subject to the duty to collaborate in the commissioning and provision of victim support services.
- 84 Subsection (1) explains that the relevant authorities are local policing bodies (meaning Police and Crime Commissioners, the Mayor’s Office for Policing and Crime in relation to the Metropolitan Police district and the Common Council in relation to the City of London police area; as created by the Police Reform and Social Responsibility Act 2011); Integrated Care Boards (as created by the Health and Care Act 2022); and tier one local authorities (as defined in the Domestic Abuse Act 2021 and meaning the county council or the district council where there is no county council, and the Greater London Authority rather than individual London boroughs, and the Council of the Isles of Scilly).
- 85 The exercise of the duty will be organised by reference to police area, because it is expected that the PCC may convene the collaborative activity in local areas and bring local partners together. The relevant authorities are those responsible for functions falling all or part within a police area. The relevant police area in each instance will be that attaching to the local policing body as defined in section 101(1) of the Police Act 1996, namely that listed in schedule 1 of the Police Act 1996), the Metropolitan Police district and the City of London police area. For integrated care boards and local authorities, these could fall fully or partly within the police area meaning at the local level that the same commissioning team may be required to liaise with one or more PCC as appropriate in relation to the effective discharge of this duty.

Clause 8: “Victim support services”

- 86 This clause creates a definition of victim support services for the purpose of the duty created in Clause 6. Subsections (1) and (2) define victim support services as services that are provided to support victims of domestic abuse, a sexual offence or serious violence, where there has been criminal conduct. Victim support services can include advice, recovery and support services, which could be medical, therapeutic, practical and/or emotional. This duty is intended to require the relevant authorities to target this collaborative effort towards victims of these categories of crime, which are particularly traumatic offences with a high number of victims each year.
- 87 Excluded support services are those that are available under separate regimes, namely those offered in accommodation-based settings as per section 57 of the Domestic Abuse Act (2021) (subsections (1) and (3a)) and those relating to terrorism, as victims of terrorism are supported by the Home Office CONTEST strategy and funding commitments.
- 88 Subsection (3) and (4) explain that domestic abuse for these purposes has the same meaning as that in s.1 in the Domestic Abuse Act 2021 and sexual offence means an offence as stated in Schedule 3 of the Sexual Offences Act 2003 (but any reference in the schedule appearing to pose additional conditions for this to count as an “offence” such as a requirement that an offender has been sentenced or imprisonment has been ordered for a certain number of years can be ignored for these purposes).
- 89 Subsection (5) and (6) explain what is meant by serious violence. Violence for these purposes includes violence against property and threats of violence; and the decision as to whether violence is serious should be based on penalties and victim impact and should be made by the relevant authorities. Terrorism within the meaning of the Terrorism Act (2000) is not included (for the reasons explained in paragraph 89).

Independent Advisors

Clause 9: Guidance about independent advisors

- 90 Subsection (1) of this clause creates a duty on the Secretary of State to issue guidance on the roles and functions of Independent Domestic Violence Advisors (IDVAs) and Independent Sexual Violence Advisors (ISVAs). As set out in subsection (3), this guidance will include matters such as the key functions of these roles alongside recommended minimum standards and best practice. It will also set out recommended and expected

interactions with those who work with ISVAs and IDVAs in order to work collaboratively to meet the needs of victims. The guidance itself will primarily make provision for primary victims, but may also make provision for services to support other victims such as those described in clause 10(1)(a) and (2)(a), as well as victims of other specified descriptions of offence

- 91 Subsection (2) defines an Independent Domestic Abuse Advisor to mean a person who provides services to support victims of domestic abuse and their children. It also defines an Independent Sexual Abuse Advisor to mean a person who provides support services for victims of sexual offences. These definitions are deliberately broad in view of the wide range of services provided by these advisors. The definitions describe (but do not limit) the scope of services which might be provided, but do not prescribe eligibility for advisor services.
- 92 Subsections (4) and (5) states that the guidance about IDVAs and ISVAs may make provision about primary victims as defined in sections 10(1) and 10(2). The guidance will be focussed on services provided to primary victims, without limiting the possibility of advisors providing services beyond this category of victims.
- 93 Subsection (6) creates a duty on anyone who has a function which is related to victims of crime or the criminal justice system to have regard to the guidance. This captures a wide range of persons, but the guidance will only have effect when those persons are exercising functions in relation to these advisors.

Clause 10: Interpretation of section 9

- 94 This clause defines a victim as a victim of domestic abuse and a victim of sexual violence for the purposes of clause 9.

The Role of the Victims' Commissioner

Clause 11: Commissioner for Victims and Witnesses

- 95 Subsection (1) amends the Domestic Violence, Crime and Victims Act 2004 (the 2004 Act) through the following actions.
- 96 Subsection (2) removes subsection (1)(c) from section 49 of the 2004 Act which requires the Victims' Commissioner (VC) to keep the Victims' Code under review. It also amends subsection (2)(c) to provide that the VC can make recommendations at any point in time and is not limited to just making recommendations in the annual report. Subsection (2) also provides that the VC can include within the annual report recommendations to any authority within the VC's remit. Subsection (2) also requires the Commissioner to lay the annual report before Parliament.
- 97 Subsection (3) requires criminal justice agencies or Government departments who are named directly in the Commissioner's annual report to respond to any recommendations made to them. The relevant person(s) must prepare comments on any recommendations made in the report, with an explanation of:
- the action that has been, or is proposed to be taken in response to the recommendation, or;
 - why action has not been or is not proposed to be taken in response to the recommendations.

The relevant person(s) is the authority the recommendations are made about, or in the event the authority is a Government department with a responsible Minister, that Minister. The response must be published in a manner considered appropriate by the relevant person(s), within 56 days of the VC's report being published. Anything published must be sent to the Commissioner and where the authority is a Government department in the charge of a Minister, the Secretary of State.

- 98 Subsection (4) ensures that Schedule 9 of the 2004 Act includes the authorities that may be responsible for responding as per subsection (3) above.

Joint thematic inspections on victims' experiences

Clause 12: Joint inspections relating to victims

- 99 Subsection (1) adds provisions to the Prisons Act 1952 (which covers provision for Her Majesty's Chief Inspector of Prisons) to provide for the Secretary of State, Lord Chancellor, and the Attorney General to jointly require that the criminal justice inspectorates' joint inspection programme includes provision for inspections at specified times, of specified matters relating to the treatment of victims. It also sets out that "specified" means

specified in the direction, and “victim” has the meaning given to it by section 1 of the Victims and Parliamentary Commissioner for Administration Act 2022.

100 Subsection (2) provides for the same provisions to be added to the Police Act 1996, which covers provision for Her Majesty’s Inspectors of Constabulary.

101 Subsection (3) provides for the same provisions to be added to the Crown Prosecution Service Inspectorate Act 2000, which covers provision for Her Majesty’s Chief Inspector of the Crown Prosecution Service.

102 Subsection (4) provides for the same provisions to be added to the Criminal Justice and Court Services Act 2000, which covers provision for the inspectorate of probation for England and Wales.

Parliamentary Commissioner for Administration

Clause 13: Parliamentary Commissioner for Administration

103 Subsection (1) amends the Parliamentary Commissioner for Administration Act 1967 through the following actions.

104 Subsection (2) provides for complainants who claim to have sustained injustice due to the maladministration of a government department or other authority to which the Act applies, to go directly to the Commissioner, rather than going through a member of the House of Commons where, in the complainant’s opinion, the complaint relates to their experience as a victim of crime. Subsection (2) also provides for all other complaints to be referred to a member of the House of Commons in the usual way.

105 Subsection (3) provides for complaints who claim that a duty under the Victims’ Code has been breached or a person has failed to comply with a duty to victims under sections 35-44 of the Domestic Violence, Crime and Victims Act 2004, to go directly to the Commissioner, rather than going through a member of the House of Commons where, in the complainant’s opinion, the complaint relates to their experience as a victim of crime. Again, subsection (3) also provides for all other complaints to be referred to a member of the House of Commons in the usual way.

106 Subsection (4) provides that “victim” has the meaning given by clause 1 of this Bill.

107 Subsection (5) provides that a complaint under subsections (2) and (3) above may be made directly by a person authorised to act on behalf of the aggrieved person (and this may be a member of the House of Commons). It also provides that a personal representative or a member of their family or other individual suitable to represent them can make the complaint, where a person is unable to authorise another person to act on their behalf. Lastly, it provides that a complaint under subsections (2) and (3) above must be made to the Commissioner within 12 months from the first notice of the matters alleged in the complaint.

108 Subsection (6) sets out where the report or statement on the complaint should be sent. This is to the person who made the complaint. Subsection (6)(b) allows for the report or statement to also be sent to a member of the House of Commons with the consent of the person who makes the complaint. Lastly, subsection (6)(c) provides that a report or statement by the Commissioner to the person who made the complaint or a member of the House of Commons (where the person who made the complaint is not an MP but consents to the Commissioner sending the report or statement to their MP) shall be absolutely privileged.

Commencement

109 Clause 17 states when each provision in this Act comes into force. Some provisions commence on the day on which this Act is passed; others at two months from the date on which the Act is passed; and remaining provisions come into force on a day the Secretary of State appoints by regulation.

Financial implications of the Bill

110 An Impact Assessment has been prepared for the Bill and covers the implications on bodies and organisations which derive from this Bill. The main public sector financial implications fall to:

- Police and Crime Commissioners – with the cost to monitor compliance with the Victims’ Code and give regard to feedback estimated to be between £0 and £3.5m per year, and the cost to collaborate when commissioning support services for victims estimated to be £0.17m to £0.18m per year, with a best estimate of £0.17m.
- Criminal justice inspectorates – with the cost of a regular joint thematic inspection estimated as £1m, currently assumed that these inspections will take place around every 3 years.
- Local authorities - with the cost to collaborate when commissioning support services for victims estimated to be £0.29m to £0.34m per year, with a best estimate of £0.31m.
- Integrated Care Boards – with the cost to collaborate when commissioning support services for victims estimated to be £0.0m to £0.19m per year, with a best estimate of £0.09m.

111 The other options in this Bill (placing the Victims’ Code into legislation, amending the role of the Victims’ Commissioner, removing the ‘MP filter’, and placing ISVAs and IDVAs on a statutory footing) are currently estimated to be of no cost.

112 All of these figures are estimated based on a number of assumptions about implementation which are subject to change. Further details of the costs and benefits of individual provisions are set out in the Impact Assessment published alongside the Bill.

113 A money resolution is required for this Bill. A money resolution is required where a Bill authorises new charges on the public revenue (broadly speaking, new public expenditure). For this Bill the potential increases in public expenditure is mainly attributable to new or expanded functions conferred on public authorities. This includes expenditure on Police and Crime Commissioners, local authorities, and Integrated Care Boards under Clauses 6-8 in relation to the requirement to collaborate when commissioning support services for victims. Further expenditure may be required for Police and Crime Commissioners under Clause 5 and their need to monitor Victims’ Code compliance and give regard to victim feedback. Clause 12, requiring regular joint thematic inspections on victims’ issues give rise for potential increases in the sums provided to the criminal justice inspectorates.

Compatibility with the European Convention on Human Rights

114 The Government does not consider that the Bill raises any significant issues in relation to the European Convention on Human Rights (ECHR) and the Lord Chancellor and Secretary of State for Justice, the Rt. Hon. Dominic Raab MP, has made a statement under section 19(1)(a) of the Human Rights Act 1998 that the Bill is compatible with the ECHR.

Related documents

115 The following documents are relevant to the Bill and can be read at the stated locations:

- Delivering justice for victims: Government consultation, HM Government, December 2021.
- Delivering justice for victims: Response to consultation, HM Government, May 2022.

Annex A - Territorial extent and application in the United Kingdom

Below sets out the territorial extent and application for the provisions within the Bill. The provisions of the Bill extend to England and Wales. With the exception of Clause 13 where amendments to the existing system for victims' complaints to the Parliamentary Commissioner will apply UK-wide for those complaints which relate to reserved matters within the Parliamentary Commissioner's jurisdiction.

Clauses 1-5 and 9-12 will apply to England and Wales. Clauses 6-8 will apply to England only. Clause 13 will apply UK-wide.²

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Legislative Consent Motion needed?
Clause 1	Yes	Yes	No	No	No
Clause 2	Yes	Yes	No	No	No
Clause 3	Yes	Yes	No	No	No
Clause 4	Yes	Yes	No	No	No
Clause 5	Yes	Yes	No	No	No
Clause 6	Yes	No	No	No	No
Clause 7	Yes	No	No	No	No
Clause 8	Yes	No	No	No	No
Clause 9	Yes	Yes	No	No	Yes
Clause 10	Yes	Yes	No	No	Yes
Clause 11	Yes	Yes	No	No	No
Clause 12	Yes	Yes	No	No	No
Clause 13	Yes	Yes	Yes	Yes	No

Subject matter and legislative competence of devolved legislatures

116 It is the view of the UK Government that Clauses 9 and 10 fall within the legislative competence of the Senedd Cymru. These clauses create a definition of an Independent Sexual Violence Advisor and an Independent Domestic Violence Advisor and creates a power for the Secretary of State to issue guidance about these roles. The clauses state that any persons having functions relating to victims must have due regard to this guidance. Where this includes bodies with functions which fall within the devolved competence in Wales, this falls into an area of devolved competence.

117 Conversations are ongoing with the Welsh Government and a legislative consent motion shall be sought upon formal introduction of the Bill.

² References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the Senedd Cymru or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

Annex “B” Delegated Powers Memorandum

DELEGATED POWERS MEMORANDUM

Introduction

1. This memorandum has been prepared by the Ministry of Justice for the Delegated Powers and Regulatory Reform Committee, to assist with its scrutiny of the Draft Victims’ Bill (“the Bill”). The memorandum identifies the provisions of the Bill which confer new powers to make delegated legislation. It explains in each case why the power has been taken and the nature of, and reason for, the procedure selected.

Background and purpose of the Bill

2. The Bill aims to improve victims’ experiences so that victims feel better supported across the criminal justice process. These measures together will amplify victims’ voices, strengthen transparency and accountability of criminal justice agencies, and improve support for victims. Where these provisions affect the criminal justice system only, they apply to England and Wales. Where they involve policy areas which are devolved to the Welsh Government (such as health and social care bodies) conversations are ongoing with the Welsh Government as to whether these provisions will be extended to Wales, and a legislative consent motion will be sought when the Bill is formally introduced in Parliament, as appropriate.

The Bill:

- a. Provides for the key principles that must be reflected in the Victims’ Code; and provides for a power to make regulations to specify the key entitlements to be included in the Code;
- b. Provides for improved review and oversight of compliance with the Victims’ Code by placing a duty on specified criminal justice bodies within a police area (police, Crown Prosecution Service (CPS), courts, probation and Youth Offending Teams) to keep under review their own compliance with the Code, and enhancing the role of the elected local policing bodies (Police and Crime Commissioners (PCCs)) by placing them under an overarching duty to keep under review the operation of the Victims’ Code. The Bill also strengthens the mechanisms for reviewing compliance with the Code through improved data collection and sharing and creating a duty for the specified criminal justice bodies and PCCs to take into account victims’ experiences;
- c. Provides for regular joint thematic inspections on victims’ experiences and treatment to ensure a clearer and sharper focus on the quality of service provided to victims. We propose giving the Home Secretary, Justice Secretary and Attorney General a power to direct criminal justice inspectorates to undertake regular joint thematic inspections to assess the service provided to victims by police forces, CPS, HM Courts and Tribunals Service, prisons and probation. The regularity and focus of the inspections would be jointly directed by the Home Secretary, Justice Secretary, and Attorney General;
- d. Provides for changes to the role of the Victims’ Commissioner (VC) including requirements in relation to the annual report produced by the VC. To improve the effectiveness of the VC the Bill will provide

for the VC to lay their annual report in Parliament to raise the profile of their reports and of victims' issues and provide for relevant agencies to respond to the VC's annual report recommendations within 56 days, explaining how they will act upon the recommendation, or how they will do so in future, or provide reasons for why they will not act on the recommendation. The Bill will also remove the VC's oversight role for Victims' Code compliance which will be transferred to PCCs; the VC will continue to play a vital role in improving Code compliance at a national level through their other functions, for example in publishing reports and making recommendations, advising Ministers and through their role on the National Criminal Justice Board. The Victims' Commissioner will also retain the explicit power to 'make recommendations around changes to the Code', as set out in statute;

- e. Removes the need for a victim of crime to raise a complaint via an MP before it can be escalated to the Parliamentary and Health Services Ombudsman (PHSO). We propose to allow victims to make complaints directly to the PHSO when they have exhausted individual agencies' complaints systems. For those who may wish for assistance and support to escalate their complaints, we propose that this can be done via an authorised person which can include an MP. This would simplify the complaint escalation process for victims, which the PHSO's consultation found could be particularly onerous for victims who may not want to repeat their traumatic experiences at multiple stages;
- f. Introduces a duty for PCCs, local authorities and Integrated Care Boards to collaborate locally when commissioning victim support services, to facilitate more holistic and better coordinated victim support services; and
- g. Creates a duty for those who have functions relating to victims and/or the criminal justice system to take account of guidance relating to the role and functions of Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs).

Delegated powers

- 3. The Bill includes six delegated powers in relation to the measures above as well as two regulation-making powers to make transitional or saving provision, and relating to commencement:
 - a. A power for the Secretary of State ('SoS') to make regulations to set out further specifications about the services to be provided to victims in the Code of Practice for Victims of Crime ("Victims' Code") (including about the persons by whom service are to be provided) (clause 2(2)(b)) (together with a re-statement of the power to issue the Victims' Code itself in clause 2(1));
 - b. A duty on the SoS, after consulting such persons as the SoS considers appropriate, to issue guidance to relevant authorities about how they are to comply with their duties relating to collaborating when commissioning victim support services (clause 6(8));
 - c. A duty on the SoS to issue guidance relating to IDVAs and ISVAs (clause 9(1));
 - d. A duty on the SoS to issue guidance to PCCs, which for the purpose of this clause means elected local policing bodies, and local criminal justice bodies, about the exercise of their functions relating to keeping under review compliance with the Victims' Code (clause 5(6));
 - e. A power for the SoS to make regulations specifying the information which should be collected and shared by local criminal justice bodies for the purpose of effectively discharging duties in clause 5(0));
 - f. A power for the SoS, Lord Chancellor and Attorney General, acting jointly, to require a joint inspection programme to include provision for the inspection, at specified times, of specified matters relating to the experiences and treatment of victims (clause 12);
 - g. A power to commence certain provisions of the Bill by regulations (clause 17(3));
 - h. A power to make transitional, transitory or savings provision in connection with the coming into force of the Bill (clause 17(5)).

Clause 2(2)(b): A power for the SoS to make further provision about the services for which provision must be made by the Victims' Code (including about the persons by whom service are to be provided)

Power conferred on: Secretary of State

Power exercisable by: Regulations made by Statutory Instrument

Parliamentary Procedure: Negative Resolution

Context and purpose

4. The Bill repeals the provisions in Part 3, Chapter 1, of The Domestic Violence, Crime and Victims Act 2004 (the 2004 Act) which relate to the issuing of a code of practice as to the services to be provided to a victim of criminal conduct. It re-states and builds upon these provisions by setting out key principles that the Code must reflect when making provision for those services, subject to the permissible restrictions currently set out in section 32 of the 2004 Act (and re-stated as clause 2(3) of the Bill). The Bill also creates a power for the Secretary of State to make further provision by way of regulations about services to be provided to victims of criminal conduct under the Code. The current Code, which came into force on 1 April, is structured around 12 overarching services which eligible victims are entitled to receive and are referred to as 'rights' in the Code itself. It is intended that the Regulations will include a list of overarching entitlements for victims (and that these will include those found in the current version of the Victims' Code) and stipulate that the Code must include provision for services in respect of them. The Code itself will set out the extent and application of those entitlements. In this way, the regulations and the key principles set out in the Bill will specify matters for which the Code must make provision, thus creating a more robust legislative framework to underpin its content
5. The regulations will be supplemented by a new Victims' Code, which will be laid after the consultation process in current Section 33 of the 2004 Act (clause 3 of the draft Bill) has been followed. The Code will reflect the key principles set out in primary legislation and the further matters specified in the regulations. Any future revisions to the Code will always need to reflect the key principles and any further matters specified in regulations in force at the relevant time.

Justification for taking the power

6. The Victims' Code is an established and recognised document setting out the services to be provided to a victim of criminal conduct. It is a victim-facing document and, in addition to setting out the services and minimum standards that victims can expect to receive, it also contains explanations about the wider justice system and information about accessing services which the Code itself does not provide for. Examples of this are; information about where to access support for families bereaved by murder or manslaughter abroad and about coroners, which are civil courts. Given the level and nature of detail necessary to make this document meaningful for victims, it would not be suitable to transpose the Code in its entirety into primary or secondary legislation. Therefore, we want to maintain the Code in its current form and increase awareness of it, while also legislating to give greater certainty on the content of the Code and improve parliamentary oversight.
7. In order to do that, we are legislating for the key principles which we want to ensure are adhered to in any future version of the Code; together with a statutory requirement that the services provided for in the Code must reflect those key principles.

8. To supplement those key principles and provide further parliamentary oversight of the content of the Code, we are taking a power to specify in regulations further matters that the Code must cover, which may add to, but not detract from, these key principles. This would enable further key principles to be added in the future, if appropriate, and can be used to specify further detail of how the key principles must be given effect.
9. We intend to use this power to set out, by regulation, key entitlements that the Code must make provision for and, by so doing, provide a framework for the Code and its contents. This will also ensure greater parliamentary scrutiny of the content of the Code.
10. Unlike the key principles, which will be set out in primary legislation, the regulations are more likely to need to be amended to reflect future development of the provision of victim services. The power would also enable a further key principle to be added in the future, if considered appropriate.
11. Together with the primary provisions, the power to specify in regulations further matters that the Code must cover is designed to improve the overall parliamentary accountability of the Victims' Code, consistent with enhancing its status.

Justification for the procedure

12. The regulations will be subject to the negative resolution procedure. We consider this to be an appropriate level of scrutiny as the regulations cannot amend or depart from the key principles which will be set out in primary legislation. Further, once the Code is re-issued, the statutory requirements in relation to the Code itself are such that the SoS cannot make changes that would result in a reduction in the quality or extent of the services provided under the Code, or a significant restriction in the description of persons to whom services are to be provided under the Code (clause 3(9)). Furthermore, the regulations can only be used to specify matters that must be included in the Code. The power cannot be used to restrict what is included in the Code, as removal of any provision from the regulations could not result in any change to the Code that would be in breach of this statutory duty (justifying the use of the negative procedure).
13. Further, if the SoS wished to introduce amendments via the regulations aimed at introducing additional key entitlements, to the extent that these would require changes to the Code, how to effect such changes would be subject to public consultation (clause 3(10)). The regulations themselves would therefore operate to add yet a further level of scrutiny, at the parliamentary level, thus enhancing overall accountability. In light of this it is considered that the negative resolution procedure is the appropriate level.
14. A draft of the revised Code and regulations will be prepared to inform parliamentary passage of the Bill.

Clause 6(8): Duty on the SoS to issue guidance, after consulting such persons as the SoS considers appropriate, to relevant authorities about how they are to comply with their duties under this section (clause 6(8))

Power conferred on: Secretary of State

Power exercisable by: Guidance

Parliamentary procedure: None

Context and purpose

15. As set out above, the Bill confers a duty on specified authorities to collaborate when commissioning support services for victims of domestic abuse, sexual violence and serious violence, and to prepare, publish and

implement a joint local strategy to set out the aims and approach for commissioning relevant services from each agency. The specified authorities are: local policing bodies (meaning Police and Crime Commissioners, the Mayor's Office for Policing and Crime in relation to the Metropolitan police district and the Common Council in relation to the City of London Police area; and created by the Police Reform and Social Responsibility Act 2011); Integrated Care Boards (as created by the Health and Care Act 2022); and tier 1 local authorities (as defined in the Domestic Abuse Act 2021 and meaning the county council or the district council where there is no county council, and the Greater London Authority rather than individual London boroughs). It also requires these bodies to explain how the general collaboration duty, as well as the particular requirements imposed in relation to preparation of the strategy (on consultation and key matters to which they should have regard) have been met.

16. The new duty is intended to ensure collaboration in the exercise of existing commissioning functions to facilitate more holistic and better coordinated local area services; to increase the voice of victims within the commissioning process so that their needs are better reflected; and to improve accessibility and tailoring of services to particular needs, such as the needs of victims with protected characteristics. There is no intention to create a new duty to arrange or provide services.
17. We recognise that the authorities subject to the duty may benefit from support through guidance on how best to meet the duty requirements, and that there is a balance to strike between providing relevant authorities with flexibility to undertake activity in a way that works locally, and to seek consistent approaches across England.
18. Clause 6(8) therefore makes provision for the Secretary of State to issue guidance to specified authorities. These bodies must have regard to the guidance when complying with the duties imposed under the remainder of Clause 6.
19. Clause 6(8) includes a requirement for the Secretary of State to consult such persons as they consider appropriate before issuing guidance.

Justification for the power

20. The purpose of any guidance under clause 6(8) is to support the relevant authorities in discharging their functions under that section. The legal framework contained within the Bill sets out the key features of the collaboration duty, and guidance would supplement this with practical advice and best practice examples so that areas may draw on them. For example, it will include explanatory material in relation to how local partnership structures may work for collaboration and how joint activity may be convened in practice (such as through a convening role by PCCs), alongside information to support strategy production, such as relevant needs assessments, consultation methods with victims and providers, and on data sharing mechanisms like memorandums of understanding. This aims to provide a framework for consistent approaches to delivering the duty while allowing for local discretion to tailor their approach as appropriate.
21. The duty on the relevant authorities to have regard to the guidance will ensure: (i) that the guidance is appropriately taken into account when the authorities are carrying out their functions; and (ii) that those who interact with the authorities are aware both of the guidance, and that the authorities are under a duty to have regard to it.
22. There is a range of guidance issued in relation to local commissioning of services, and it is important that guidance can be updated quickly to keep pace with good practice and the changing nature of crime and relevant support.

Justification for the procedure

23. Any guidance issued under clause 6(8) will not be subject to any parliamentary procedure on the grounds that it would provide practical advice on the discharge by the specified authorities about how they are to comply with their duties under this section. The guidance will not conflict with, or alter the scope of, the duty set out in the legislation.
24. Moreover, whilst the specified authorities will be required to have regard to the guidance when exercising those functions, the guidance will not be binding. The approach in clause 6(8) is consistent with other legislation providing for statutory guidance.
25. A draft of the guidance will be made available during the passage of the Bill to enable scrutiny, and the Secretary of State may choose to consult such persons as considered appropriate prior to issuing the guidance.

Clause 9(1): Duty on the SoS to issue guidance about IDVAs and ISVAs

Power conferred on: Secretary of State

Power exercisable by: Guidance

Parliamentary procedure: None

Context and purpose

26. Clause 9(1) makes provision for the Secretary of State to issue guidance about IDVAs and ISVAs. Any person who has functions relating to victims of criminal conduct, or any aspect of the criminal justice system, is required to have due regard to the guidance.
27. It is intended that there will be separate guidance for ISVAs and IDVAs respectively, and that guidance will include provision on, but not limited to, a) the role of the advisors; b) how the advisors, and other persons (as set out above) should work together to best support victims and c) recommended training and qualifications for such advisors.
28. Guidance will highlight and promote best practice amongst these roles, encouraging consistency and standardisation, while allowing flexibility and innovation. The Secretary of State will be under a duty to issue guidance, i.e. he/she must issue guidance in respect of both ISVAs and IDVAs.

Justification for taking the power

29. The MoJ are particularly invested in ISVA and IDVA roles, due to the positive impact these roles have been shown to have on victim experience, which is why we have also invested substantially in funding these roles. Funding also comes from other Government departments, local authorities and third parties. This mix of funding and commissioning has led to the sector and advisors operating with differing abilities, varied specialisms and training, and in some cases different job titles. The lack of an overarching framework setting out the scope and operation of these roles has led to inconsistencies in support available for victims, and varied understanding of what these roles can do, by victims and other agencies.
30. While non-statutory guidance already exists (Home Office 'Essential Elements of an ISVA' 2017) this has been somewhat ineffective in ensuring standards are consistent across the sector.

31. Our aim is to therefore improve consistency and help overcome some of the challenges ISVAs and IDVAs face around multi-agency working. We believe that guidance issued by reference to a statutory duty will have greater weight than the current guidance, and the additional duty to have ‘regard’ to that guidance will ensure that all ISVAs, IDVAs and those who have functions which interact with them are working consistently; as well as ensuring that those who interact with those subject to the duty are aware of both the guidance and the duty to have regard to it.
32. The guidance will provide information and recommendations which the advisors and those who have functions relating to victims and the criminal justice system must have regard to, ensuring standardisation and better collaborative working. Although relevant individuals are under a duty to have regard to the content of the guidance it will be advisory in nature rather than stipulating specific requirements, as we are conscious that over-regulating could have adverse consequences, destabilising the professions we are aiming to support and strengthen.
33. Whilst there is a duty for anyone who has a function which is related to victims of crime, or any aspect of the criminal justice system, to pay due regard to this guidance, the subject matter of the guidance (relating to the role of advisors and how they should work with other agencies), means that the duty will only apply in circumstances where someone is working alongside/with an IDVA/ISVA to support a victim. This means that it will not capture people unnecessarily but will be wide reaching to the large cohort of agencies and persons that could better understand the ISVA/IDVA role in order to improve how victims are supported.

Justification for the procedure

34. Any guidance issued under clause 9(1) will not be subject to any formal consultation procedure. We anticipate that there are likely to be regular amendments to the guidance due to the nature of the sector which would make a formal consultation procedure overly burdensome. However, clearer and more widely distributed guidance was a consistent theme of feedback from the Victims’ Bill consultation and is expected to be welcomed by the sector. The guidance relating to both ISVAs and IDVAs will be drafted in consultation with interested stakeholders and practitioners who will provide scrutiny and challenge. Considering the advisory nature of the guidance, we believe this approach is proportionate.

35. We intend to make available a draft of the guidance during the passage of the Bill to enable further scrutiny.

Clause 5(12): Power for the SoS to specify in regulations how each local criminal justice body should collect and share data in respect of keeping under review their compliance with the Victims’ Code under section 5(3)(b) and(c).

Power conferred on: Secretary of State

Power exercisable by: Regulations

Parliamentary procedure: Negative Procedure

Context and purpose

36. The Bill establishes duties on specified criminal justice bodies (police, CPS, HMCTS, HMPPS and Youth Offending Teams) and PCCs to keep under review compliance with the Victims’ Code, and to take into account the experiences of victims in the local area. It also places a specific duty on local criminal justice bodies to collect and share data (with one another and with PCCs) about their compliance with the Code and creates a

power for the Secretary of State to make regulations setting out what data should be collected and shared in order to fulfil this duty.

Justification for taking the power

37. The Bill itself creates duties for specified bodies to keep under review their compliance with the Victims' Code and for PCCs to have oversight of those bodies' compliance with the Code. To support these duties, there is a separate duty for criminal justice bodies to collect and share data in respect of Code compliance. Given that the bodies will be under a statutory duty to collect and share this data, it is necessary for the details of what data should be collected and shared to be set out in legislation so that the bodies are able to understand and comply with those duties.
38. Secondary legislation, i.e. regulations, is most appropriate for this purpose because the local criminal justice bodies will need to collect data against a set of detailed metrics. These metrics will be lengthy and detailed, and therefore not appropriate for primary legislation. The metrics may also need to be amended to reflect changes to the Victims' Code or the bodies operational procedures.
39. Likewise, a power to make regulations is required in respect of the statutory duty to share data where it is necessary for the details of what data should be shared to be set out in legislation so that the bodies are able to understand and comply with that duty. Regulations will set out what data the bodies should share, and the arrangements for sharing that data, which is too detailed to include in the Bill itself.

Justification for the procedure

40. The regulations will be subject to the negative resolution procedure. The regulations will centre around a set of metrics reflecting the services included in the Victims' Code, and will contain provision for how that information should be shared between the local criminal justice bodies and with PCCs. There is also a specific legislative duty placed on the SoS to consult such persons as they think appropriate before making regulations. It is intended that the criminal justice bodies and PCCs will be consulted on the content of the regulations. Therefore the negative procedure is considered to provide an appropriate level of parliamentary scrutiny given that the regulations will have been drafted in consultation with relevant bodies
41. A draft of the regulations will be prepared to inform parliamentary passage of the Bill.

Clause 5(5): Duty on the SoS to issue guidance to elected local policing bodies (PCCs) and criminal justice bodies about exercise of their functions under this section

Power conferred on: Secretary of State

Power exercisable by: Guidance

Parliamentary procedure: None

Context and purpose

42. Clause 5(5) creates a duty on the Secretary of State to issue guidance to assist local criminal justice bodies and PCCs with exercising their functions to keep under review compliance with the Victims' Code.

43. The guidance will include recommendations on how the bodies might meet their over-arching duties to keep under review compliance with the Victims' Code. In particular it will include guidance in respect of the steps that local criminal justice bodies may take to identify information about the experiences of victims, and how those bodies can take that information into account. It will also provide guidance on the ways in which the bodies could monitor Code compliance locally through meetings to be attended by all bodies, and chaired by PCCs.
44. The Secretary of State is under a duty, i.e. they must, issue guidance to PCCs and criminal justice bodies, who in turn will be placed under a duty to have regard to the guidance.

Justification for taking the power

45. The Bill itself creates duties for specified bodies to keep under review their compliance with the Victims' Code, and for PCCs to keep under review those bodies' compliance with the Code and for both to take into account information about the experiences of victims as far as it is possible to do so.
46. The purpose of guidance issued under clause 5(5) is to support the relevant bodies in discharging their functions under Clause 5 by giving them further guidance on how to monitor compliance with the Victims' Code. It will not make provision for how data should be collected or shared, as those duties are underpinned by regulations which will make provision specifically for those duties.
47. It is expected that the guidance will be an important tool in guiding criminal justice bodies and PCCs on how to monitor compliance with the Code, which will allow for local areas to tailor arrangements to best meet their particular arrangements. Guidance is required for this purpose, where the detail and flexibility could not be provided for in legislation. The guidance will advise bodies on how they might meet the duty to take into account information about the experiences of victims, as well as other matters such as how they might attend meetings to discuss and scrutinise the data.
48. It is important that guidance can be updated quickly to keep pace with changes to the collection of compliance data, future revisions of the Victims' Code, and the changing nature of these crime types and nuances in local areas. This will help provide consistency across England and Wales, building a national picture of delivery of the Victims' Code across the criminal justice system, whilst allowing for local variations on what may work best to meet the legislative requirements.
49. Relevant bodies will be required to have due regard to this guidance. However, the guidance itself will contain recommendations and best practice on how the bodies should discharge their functions under 5(1) and 5(3). It is advisory in nature and therefore does not create any obligations or duties in respect of these duties.
50. The guidance will also be used to set out instructions in respect of the duty to take into account information about the experiences of victims, such as setting out the steps the bodies may take to identify relevant information and the way in which they take that information into account as part of reviewing their compliance with the Code. In respect of this duty, and in keeping with public law principles and good administration we would expect that the bodies should follow the recommendations made in the guidance and only depart from it where they have justification for doing so. This will ensure proper understanding and consistent delivery of the requirements of the duties to keep under review Code compliance but will also allow for flexibility given that the guidance will cover all of the criminal justice bodies and PCCs who will be operating by local police area. This will also ensure that the guidance is given appropriate weight when the body is carrying out its functions and ensure that those who interact with bodies who are subject to the duty are aware of the guidance and its status. This duty only falls on the main bodies who are responsible for delivery of the services in the Victims' Code and PCCs.

Justification for the procedure

51. The guidance will provide practical direction on the discharge of the relevant bodies' functions and duties set out in primary legislation. The duties themselves are set out in legislation and will therefore be subject to parliamentary scrutiny. The guidance will aid delivery of those duties by setting out further explanation and practical guidance on them. There is also a legislative duty for the SoS to consult such persons as they consider appropriate before issuing guidance. This will ensure that the guidance is drafted in consultation with relevant bodies.
52. The guidance will be drafted for review alongside the passage of the Bill and will be published after engagement with bodies who are subject to the duties in this section. We consider that this is the appropriate level of scrutiny where criminal justice bodies and PCCs must have regard to the guidance, but where the duties upon which the guidance are based will have full parliamentary scrutiny.

Clause 12: A power for the SoS, Lord Chancellor and Attorney General by a joint direction to require a joint inspection programme to include provision for the inspection, at specified times, of specified matters relating to the experiences and treatment of victims

Power conferred on: Secretary of State, acting jointly with the Lord Chancellor and Attorney General

Power exercisable by: Direction

Parliamentary procedure: None

Context and purpose

53. Clause 12 amends each of the existing inspection regimes in relation to their powers to act jointly with other inspectorates when discharging their functions. The existing legislative powers in respect of inspectorates include powers that provide for the SoS, Lord Chancellor and the Attorney General (acting jointly) to direct when a joint inspection framework is prepared and what form it should take. Clause 12 adds a further power to enable the SoS, Lord Chancellor and the Attorney General by a joint direction to require a joint inspection to take place at specified times in relation to specified matters relating to the experiences and treatment of victims. Any directions given on the timing of a joint victims' inspection will only be in respect of when that inspection takes place within a given joint inspection business plan cycle. As joint victims' inspections are to be carried out under the existing inspection regimes, they will benefit from any supplementary provisions attached to each regime i.e. powers to obtain information and access premises under s.54 of the Police Act.
54. The purpose behind this is to ensure that the criminal justice inspectorates regularly focus on the entire experience of victims throughout the criminal justice process, in order to identify issues and provide recommendations as to how to address them, therefore improving the quality of service provided to victims.

Justification for taking the power

We want to take the necessary power to ensure that the inspectorates regularly conduct joint thematic inspections on the treatment of victims. This power will enable the SoS, Lord Chancellor and Attorney General to specify when a joint victims' inspection should take place and what that inspection must consider in relation to the experiences and treatment of victims. A power to direct joint inspections of this nature is required to ensure inspections on victims' experiences of the criminal justice system are carried out when the SoS, Lord Chancellor and Attorney General deem it necessary, in order to better understand the quality of service provided to victims or specifically delve into an victims' issue that has arisen to understand why it is happening and how to address it.

Justification for the procedure

55. These directions require no parliamentary procedure. This is consistent with the existing powers of direction in the legislation in respect of joint inspections.

Clause 17(3): Commencement powers

Power conferred on: Secretary of State

Power exercisable by: Regulations made by statutory instrument

Parliamentary procedure: None

Context and purpose

56. Clause 17(3) contains a standard power for the SoS to bring certain of the provisions of the Bill into force by commencement regulations (Clause 2 to 8 – Victims' Code; Review of compliance with the Victims' Code; and Duties to collaborate in the provision of victim support services); Clause 12 (Joint Inspections relating to victims) and Clause 13 (complaints to the Parliamentary Commissioner for Administration).

Justification for the power

57. Leaving provisions in the Bill to be brought into force by regulations will afford the necessary operational flexibility to commence the provisions of the Bill at the appropriate time, having regard to the need to make any necessary secondary legislation, issue guidance, undertake appropriate training and put the necessary systems and procedures in place, as the case may be.

Justification for the procedure

58. As is usual with commencement powers, regulations made under clause 17(3) are not subject to any parliamentary procedure. Parliament has approved the principle of the provisions to be commenced by enacting them; commencement by regulations enables the provisions to be brought into force at a convenient time.

Clause 17(5): Power to make transitional or saving provision on commencement

Power conferred on: Secretary of State

Power exercisable by: Regulations made by statutory instrument

Parliamentary procedure: None

Context and purpose

59. Clause 17(5) confers on the SoS the power to make such transitional or saving provisions as they consider appropriate in connection with the coming into force of the provisions in the Bill.

Justification for the power

60. This standard power ensures that the SoS can provide a smooth commencement of new legislation and transition between existing legislation without creating any undue difficulty or unfairness in making these changes. There are numerous precedents for such a power, for example, section 183(9) of the Policing and Crime Act 2017.

Justification for the procedure

61. As indicated above, this power is only intended to ensure a smooth transition between existing law and the coming into force of the provisions of the Bill. Such powers are often included as part of the power to make commencement regulations and, as such, are not subject to any parliamentary procedure on the grounds that Parliament has already approved the principle of the provisions in the Bill by enacting them. Although drafted as a free-standing power on this occasion, the same principle applies and accordingly the power is not subject to any parliamentary procedure.

Ministry of Justice

May 2022

Title: Draft Victims Bill IA No: MoJ027/2022 RPC Reference No: N/A Lead department or agency: The Ministry of Justice (MoJ) Other departments or agencies: N/A	118 Impact Assessment
	Date: May 2022
	Stage: Response
	Source of intervention: Domestic
	Type of measure: Primary legislation
Contact for enquiries: Nikki.Jones@justice.gov.uk	
Summary: Intervention and Options	119 RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option (in 2022/23 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£21.7m	£0.0m	£0.0m	Not a regulatory provision

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

Inconsistent approaches for understanding victims' experiences of the criminal justice system have developed over time, and there are a variety of models for commissioning and delivering support services. In response the government is proposing a package of measures to improve victims' experiences within the criminal justice system, one element of which will be delivered via the Victims Bill. These measures seek to amplify victims' voices at every stage of the criminal justice process, to strengthen transparency and accountability of the organisations that are there to help them, and to bolster the support they receive to rebuild their lives and recover from the impacts of crime. Government intervention is required through legislation to facilitate a more consolidated framework to tackle these issues, and better support victims.

• **What are the policy objectives of the action or intervention and the intended effects?**

The policy objectives are to improve end-to-end support for victims of crime whether they choose to engage with the criminal justice process or not. This is so that (a) victims get the support they deserve and need to cope and recover, and (b) victims feel able to engage and remain engaged in the criminal justice system, and therefore support prosecutions and improve the effectiveness of the criminal justice system in England and Wales.

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

Option 0: Do nothing in legislation.

Option 1: Place the Code of Practice for Victims of Crime (Victims' Code) into legislation by placing the overarching principles of the Victims' Code on the face of the Bill, with a power to set out key entitlements of the Victims' Code in secondary legislation.

Option 2: Enhance local oversight of the Victims' Code and the role of Police and Crime Commissioners (PCCs).

Option 3: Provide the Home Secretary, Lord Chancellor and Attorney General with the power to jointly direct a joint inspection programme to include the victim experience.

Option 4: Amend the role of the Victims' Commissioner.

Option 5: Remove the requirement for victims of crime to refer complaints to the Parliamentary and Health Service Ombudsman (PHSO) through their MP.

Option 6: Place a duty on PCCs, local authorities and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, sexual violence and other serious violence.

Option 7: Place Independent Sexual Violence Advisors and Independent Domestic Violence Advisors on a statutory footing through definitions in legislation and statutory guidance.

The preferred options are Options 1-7 inclusive, as this would best meet the policy objectives.

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

Does implementation go beyond minimum EU requirements?	N/A			
Is this measure likely to impact on international trade and investment?	No			
Are any of these organisations in scope?	Micro No Yes/No	Small No Yes/No	Medium No Yes/No	Large No Yes/No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:	

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

Signed by the responsible Minister Pursglove MP:



Date:

06/05/2022

Summary: Analysis & Evidence Policy Option 1

Description: Place the Code of Practice for Victims of Crime (Victims' Code) into legislation by placing the overarching principles of the Victims' Code on the face of the Bill, with a power to set out key entitlements of the Victims' Code in secondary legislation.

FULL ECONOMIC ASSESSMENT

Price Base Year 22/23	PV Base Year 22/23	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: 0.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	0.0	0.0	0.0

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

There are no monetised costs associated with this option.

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

Although the measures in this Bill may raise awareness of the Victims' Code and therefore demand for relevant services, as the agencies and organisations responsible for delivering the entitlements in the Victims' Code are already required to provide these entitlements under a statutory code, they would be expected to meet this demand through existing resources. Therefore, although relevant organisations may wish to place a greater emphasis on delivering these entitlements, there are no costs associated with this measure.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (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'

There are no monetised benefits associated with this option.

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

Placing the Victims' Code into legislation would raise the profile and visibility of the Victims' Code and send a clear signal about what victims can and should reasonably expect from the criminal justice system. Together with Options 2 and 3 this should promote compliance with the Victims' Code and so improve the service provided and therefore outcomes for victims.

Key assumptions/sensitivities/risks

Discount rate

N/A

Raising the profile and visibility of the Victim's Code may lead to increased demand for associated services. There is a risk that this cannot be delivered with the current resource, despite this being a current requirement. If additional resource was required, then there would be costs associated with this option.

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Enhance local oversight of the Victims' Code and the role of Police and Crime Commissioners (PCCs).

FULL ECONOMIC ASSESSMENT

Price Base Year 22/23	PV Base Year 22/23	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.0	High: -28.8	Best Estimate: -14.4

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	0.0		0.0	0.0
High	0.0		3.5	• 28.8
Best Estimate	0.0		1.7	• 14.4

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

The cost to PCCs to monitor compliance with the Victims' Code and to take into account the experiences of victims is estimated to be £0.0m to £3.5m per year, with a best estimate of £1.7m. The high cost estimate is driven by the assumption that each PCC would require an additional Senior Data Analyst for two of the measures in this option. The low cost estimate assumes no additional cost under the assumption that the costs of the measures in this option are covered by current processes.

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

Any further data sharing encouraged as a result of requiring PCCs and relevant criminal justice agencies to share compliance data would have marginal cost impacts.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant	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'

There are no monetised benefits associated with this option.

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

Placing an explicit obligation on all relevant bodies to monitor and collect Victims' Code compliance data would make it clear that individual agencies are responsible for ensuring compliance. PCCs already play a vital role in improving and championing services for victims, and since 2018, have been overseeing and monitoring Victims' Code compliance data. Formalising this role and requiring PCCs to take a convening role by chairing regular local discussions would improve local cooperation, coordination and transparency. Information on victims' experiences would help agencies and PCCs to provide the right level of service to victims, and compliment and contextualise the Victims' Code compliance data.

Requiring the relevant agencies and PCCs to share compliance data would guarantee the provision of Victims' Code compliance data between parties, benefitting local discussions and ensuring collaborative working to improve delivery of the Victims' Code.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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The low cost estimate assumes no additional cost under the assumption that these requirements are covered by current processes. The high cost estimate assumes that each of the 42 PCCs requires two additional Senior Data Analysts to assist with the additional work, at an annual cost of £33,732 per analyst (£41,153 with corresponding on-costs). This salary is based on a recent job advertisement for Avon & Somerset PCC. On-costs of 22% have been added as per RPC guidance.

BUSINESS ASSESSMENT (Option 2)

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

Summary: Analysis & Evidence

Policy Option 3

Description: Provide the Home Secretary, Lord Chancellor and Attorney General with the power to jointly direct a joint inspection programme to include the victim experience.

120 FULL ECONOMIC ASSESSMENT

Price Base Year 22/23	PV Base Year 22/23	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: -2.5

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	0.0	0.3	3. 2.5

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

As the regularity and content of the inspections would be jointly directed by the Home Secretary, Lord Chancellor, and Attorney General, it is difficult to estimate the costs associated with this option. Recent thematic inspections carried out by HM Inspectorate of Constabulary (HMIC) have cost approximately £1m per inspection. It is assumed that costs would fall solely in inspection years. While the division of costs across inspectorates is uncertain, it is anticipated that the majority of costs would fall to HMIC and HM Crown Prosecution Service Inspectorate (HMCPIS) as they have more oversight of victim interactions

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

There are no non-monetised costs associated with this option.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (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'

There are no monetised benefits associated with this option.

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

Introducing this requirement would strengthen transparency and oversight of criminal justice agencies' performance in relation to victims, improving accountability for those responsible, and ultimately driving an improvement in the level of service provided to victims. This option would enable inspectorates to be more effective at: identifying key issues in relation to victims; understanding the cause of these issues and the best ways to address them; and, making recommendations that would ensure the service provided to victims improves.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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- It is assumed that an inspection would be required once every three years, with costs falling only in inspection years.
- HMIC have carried out a range of thematic inspections, with recent ones costing approximately £1m each. This figure of £1m is used as a proxy for the new inspections created by this duty.

BUSINESS ASSESSMENT (Option 3)

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

Summary: Analysis & Evidence

Policy Option 4

Description: Amend the role of the Victims' Commissioner.

FULL ECONOMIC ASSESSMENT

Price Base Year 22/23	PV Base Year 22/23	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: 0.0

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	0.0		0.0	0.0

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

- There are no monetised costs associated with the measures in this option. The measures set out under Option 2 would provide an alternative structure for reviewing operation of the Victims' Code, so there are no costs associated with removing this function from the Victims' Commissioner. As the Victims' Commissioner already produces an annual report, with its most recent annual report laid before Parliament in July 2021, there would be no additional cost in requiring all future annual reports to be laid before Parliament.

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

- The Victims' Commissioner duty would require departments and criminal justice agencies to publish a response to recommendations in the Victims' Commissioner's annual report. Agencies would not be required to accept the recommendations, but if they did wish to take them forward, departments and agencies would consider how to do so within existing budgets. Therefore, it is anticipated this measure in itself would not lead to additional costs, with potentially only a marginal cost from developing a response.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	4.	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'

There are no monetised benefits associated with this option.

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

It is intended that this option would:

- Eliminate unnecessary duplication of the function of reviewing operation of the Victims' Code. It would allow the Victims' Commissioner to dedicate its resources to its other statutory functions of promoting the interests of victims and witnesses and taking steps to encourage good practice in the treatment of victims and witnesses;
- Protect the interests of victims, and improve their treatment, by encouraging the specified organisations to respond to the Victims' Commissioner's recommendations in its annual report. This should result in better local and national treatment of victims;
- Increase government accountability in Parliament for treatment of victims by requiring the Victims' Commissioner's annual reports to be laid before Parliament.

Key assumptions/sensitivities/risks

Discount rate

N/A

- As there would be no obligation for any entity to implement any particular recommendation, it is anticipated that any costs from recommendations that are accepted would be integrated into an existing budget. There may be a marginal cost from developing a response to the recommendations made after the Victims' Commissioners' annual report.

BUSINESS ASSESSMENT (Option 4)

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

Summary: Analysis & Evidence

Policy Option 5

Description: Remove the requirement for victims of crime to refer complaints to the Parliamentary and Health Service Ombudsman (PHSO) through their MP.

FULL ECONOMIC ASSESSMENT

Price Base Year 22/23	PV Base Year 22/23	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)			
			Low: N/A	High: N/A	Best Estimate: N/A	
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)	
Low	N/A		N/A		N/A	
High	N/A		N/A		N/A	
Best Estimate	0.0		0.0		0.0	
Description and scale of key monetised costs by 'main affected groups'						
There are no monetised costs associated with this option.						
<ul style="list-style-type: none"> Other key non-monetised costs by 'main affected groups' Although exact information on the number of complaints made by victims to the PHSO is not collected, it is thought that the number of complaints received which relate to the Victims' Code is low and represents a small proportion of the overall number of complaints to the PHSO. Therefore, while there may be an increase in complaints from victims as the process will become simpler by removing the 'MP filter', the PHSO do not expect the volume of complaints to rise to a level which they are not able to handle within existing budgets. 						
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)	
Low	5. 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'						
There are no monetised benefits associated with this measure.						
Other key non-monetised benefits by 'main affected groups'						
The removal of the 'MP filter' would remove an unnecessary obstruction to access to justice for victims of crime wanting to escalate complaints against public bodies. It would enable the PHSO to investigate complaints that otherwise may not be made to it, leading to decisions and recommendations to help individuals as well as improve future government conduct and decision-making.						
Key assumptions/sensitivities/risks					Discount rate (%)	N/A
The scale of any potential increase in the number of complaints PHSO receives is uncertain. However, PHSO have said this could likely be met by their existing service provision.						

BUSINESS ASSESSMENT (Option 5)

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

Summary: Analysis & Evidence

Policy Option 6

Description: Place a duty on PCCs, local authorities and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, sexual violence and other serious violence.

FULL ECONOMIC ASSESSMENT

Price Base Year 22/23	PV Base Year 22/23	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -3.8	High: -5.8	Best Estimate: -4.8
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)
Low	0.0		0.5		3.8
High	0.0		0.7		5.8
Best Estimate	0.0		0.6		4.8
<p>• Description and scale of key monetised costs by 'main affected groups'</p> <p>6. Annual costs are estimated to be within a range of £0.46m to £0.70m, with a best estimate of £0.58m. The cost to PCCs is estimated to be £0.17m to £0.18m per year, with a best estimate of £0.17m. The cost to local authorities (LAs) is estimated to be £0.29m to £0.34m, with a best estimate of £0.31m. Cost to Integrated Care Boards is estimated to be £0.0m to £0.19m, with a best estimate of £0.09m. Costs would arise from the duty to collaborate, which could be achieved through regular meetings, and the production of a strategy to set out the approaches to this commissioning. Attending and preparing for meetings, as well as producing a strategy, would all take additional resource, which has been costed.</p>					
<p>Other key non-monetised costs by 'main affected groups'</p> <p>There are no non-monetised costs associated with this measure.</p>					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (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
<p>Description and scale of key monetised benefits by 'main affected groups'</p> <p>There are no monetised benefits associated with this measure.</p>					
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>7. This option, underpinned by statutory guidance, would improve the provision of victim support services by enabling more holistic and better coordinated services in local areas. This collaboration when commissioning would facilitate regular communication, common understandings of local area needs through shared information, and more effective co-ordinated commissioning activity. It could also reduce duplication in commissioning processes and enable targeted use of resources across the groups. The requirement for a strategy would improve transparency of the aims and approach across all groups for commissioning relevant services for victims of domestic abuse, sexual violence and serious violence in the area.</p>					
Key assumptions/sensitivities/risks			Discount rate (%)	3.5	
<ul style="list-style-type: none"> It is assumed that PCCs with five or more local authorities would need to hold three meetings per quarter, one for each crime type. PCCs with fewer than five local authorities would hold one meeting per quarter, which would cover sexual violence, domestic abuse and serious violence combined. There is significant uncertainty surrounding the number of attendees from PCCs and LAs who would be required to attend each meeting. The low scenario assumes PCCs and LAs would have one senior representative attending. The high scenario assumes PCCs and LAs would have one senior representative and one administrative member of staff attending. 					

BUSINESS ASSESSMENT (Option 6)

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

Summary: Analysis & Evidence

Policy Option 7

121 **Description:** Place Independent Sexual Violence Advisors and Independent Domestic Violence Advisors on a statutory footing through definitions in legislation and statutory guidance.

FULL ECONOMIC ASSESSMENT

Price Base Year 22/23	PV Base Year 22/23	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: 0.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	• N/A
High	N/A	N/A	• N/A
Best Estimate	0.0	0.0	8. 0.0

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

There are no monetised costs associated with this measure as the statutory definitions of ISVAs and IDVAs introduced under this option would be broad to ensure the flexibility of these roles to enable continued innovation and meet the needs of victims. There would also be no additional costs associated with the statutory guidance on ISVAs and IDVAs or the duty on other agencies to have due regard to this guidance as this would be limited to recommendations and examples of best practice.

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

There may be marginal costs associated with other agencies familiarising themselves with the statutory guidance.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (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'

There are no monetised benefits associated with this measure.

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

Defining ISVAs and IDVAs in primary legislation would aim to improve the formal recognition of these roles and improve the way other agencies interact with them. Whilst the definitions would be broad to protect the flexibility of ISVAs and IDVAs to tailor to their victims' needs, this measure would improve clarity on these roles and help raise their profiles to allow better recognition and awareness from victims, other agencies, funders, and commissioners. Underpinning these definitions with statutory guidance and a duty for other agencies to take due regard of this guidance would further support this by increasing consistency of support and providing a useful and standardised tool to support the commissioning of ISVA and IDVA services.

Key assumptions/sensitivities/risks	Discount rate	N/A
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- As the statutory definitions of ISVAs and IDVAs introduced under this option would be broad, it is assumed there are no additional costs.
- It is also assumed there would be no additional costs associated with the statutory guidance or the duty on other agencies to have due regard to this guidance as this would be limited to recommendations and examples of best practice, although there may be some minimal familiarisation costs which have not been quantified for this Impact Assessment.

122 BUSINESS ASSESSMENT (Option 7)

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

Evidence Base

A. Background

Overarching background

1. In December 2021, the government launched *'Delivering Justice for Victims'* - a consultation seeking views on how to improve victims' experiences of the criminal justice system across England and Wales. The government's vision is to see a cultural shift so that victims' experiences become central to the way our society thinks about and responds to crime.
2. In response to that consultation, there will be a package of measures to improve victims' experiences of the criminal justice system, some elements of which will be delivered via the Victims Bill. These measures seek to amplify victims' voices at every stage of the criminal justice process, to strengthen transparency and accountability of the organisations that are there to help them, and to bolster the support they receive to rebuild their lives and recover from the impacts of crime.
3. The draft Bill measures seek to improve:
 - What victims can expect within the criminal justice system, set out in the Code of Practice for Victims of Crime (Victims' Code).
 - Oversight mechanisms to drive better performance so that victims consistently receive the service to which they are entitled, including the roles of Police and Crime Commissioners (PCCs – who hold Chief Constables to account and commission support services for victims and witnesses), criminal justice inspectorates, the Victims' Commissioner, and complaints processes.
 - Aspects of victim support services, including the commissioning of these services, as well as support from Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs).
4. This Impact Assessment, which accompanies the draft Bill and is part of the overall response to the consultation, sets out the issues being addressed, the options being considered and their associated impacts. Given the draft nature of the Bill, the cost estimates presented reflect the best information currently available. We will work with relevant agencies and other government departments to refine estimates to be included within an updated final stage Impact Assessment published alongside formal introduction of the Bill in due course.

The Victims' Code

Overview

5. The Victims' Code came into effect in 2006, having been required by the Domestic Violence, Crime and Victims Act 2004. It built on the support for victims within the Victims' Charter, which was introduced in 1990 and which set out for the first time the levels of service victims of crime should expect. It has been updated several times. The latest revised Victims' Code was laid before Parliament in November 2020 and it came into force on 1 April 2021, which sets out 12 overarching entitlements:
 - To be able to understand and to be understood.
 - To have the details of the crime recorded without unjustified delay.
 - To be provided with information when reporting the crime.
 - To be referred to services that support victims and have services and support tailored to your needs.
 - To be provided with information about compensation.
 - To be provided with information about the investigation and prosecution.
 - To make a Victim Personal Statement.
 - To be given information about the trial, trial process and your role as a witness.
 - To be given information about the outcome of the case and any appeals.
 - To be paid expenses and have property returned.
 - To be given information about the offender following conviction.
 - To make a complaint about your Rights not being met.

6. The 2019 government manifesto included a commitment to “pass and implement a Victims’ Law that guarantees victims’ rights and the level of support they can expect.”¹

Issues

7. There are concerns that victims’ entitlements in the Victims’ Code are not well known or consistently delivered. Most agencies do not systematically collect data on victims, including delivery of the Victims’ Code, which leaves us with gaps in knowledge about victims’ experiences and agencies’ compliance. From the data that we do have, we know that most victims of crime in recent years did not feel that some Victims’ Code entitlements were delivered. Office for National Statistics data in 2019/20 showed that only 45% of victims felt that the police and other criminal justice agencies kept them informed, and only 18% of victims recalled being offered the opportunity to make a Victim Personal Statement.²

Local oversight and the role of Police and Crime Commissioners

Overview

8. Relevant criminal justice agencies listed in the Victims’ Code such as the police, Crown Prosecution Service (CPS), HM Courts and Tribunals Service (HMCTS), HM Prison and Probation Service (HMPPS) and Youth Offending Teams, already collect data on and analyse their compliance with the Victims’ Code. It is also crucial, however, that these agencies work together to effectively deliver the Victims’ Code and provide victims with a good service across the board.
9. It was agreed by the National Criminal Justice Board (NCJB) in 2018 that PCCs, as chairs of their Local Criminal Justice Board (LCJB), would oversee a new monitoring process, measuring criminal justice partners’ compliance with the Victims’ Code, focused on key entitlements. LCJBs and the NCJB would have access to this data to identify areas of best practice and areas of improvement.
10. The government has a manifesto commitment and ambition to strengthen the accountability of elected PCCs and expand their role.

Issues

11. There is strong evidence that compliance oversight is being taken forward by many PCCs through existing partnership arrangements, as envisaged in 2018. However, the extent to which this is proving fruitful varies, as the necessary independence of respective players in the criminal justice system can make local criminal justice partnership working challenging.
12. For example, PCCs cannot compel other criminal justice partners to provide information. National agencies, such as the CPS and HMCTS, often provide national data which is of limited use to understanding the delivery of the Victims’ Code at a local-partnership level. This is, in part, because as national agencies, they consider the responsibility for compliance to rest with the agency as a whole and not at the local level. Furthermore, there are also practical difficulties as the criminal justice agencies’ regional areas do not map directly onto the PCC areas but instead cover multiple PCC areas.
13. At present, there is a fragmented approach to collecting victim feedback about the service delivered to victims and the awareness and enforcement of the Victims’ Code. Our consultation feedback showed that more action

¹ Page 19 The Conservative and Unionist Party Manifesto 2019 <https://www.conservatives.com/our-plan/conservative-party-manifesto-2019>

• ² Experience of the criminal justice system for victims of crime, Crime in England and Wales: Appendix tables – Office for National Statistics (March 2020), <https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/adhocs/13635experienceofthecriminaljusticesystemforvictimsofcrimeenglandandwalesyearendingmarch2009toyearendingmarch2020/awarenessofthevictimscodefinaloctoberreview.xlsx>

is needed from agencies to understand victims' needs and experiences. Such data would allow agencies to use victims' voices to identify issues and drive up performance across the system.

National oversight and the criminal justice inspectorates

Overview

14. The inspectorates are independent bodies which assess the efficiency and effectiveness of different criminal justice agencies, working to promote improvements in the services provided. The inspectorates monitor and report on the relevant agencies within their remit on a rolling basis over varying timeframes. They conduct inspections where they collate relevant evidence and ask questions they believe the public would wish to have answered. Following this, they publish their findings, conclusions, and recommendations in reports.
15. The different inspectorates' remit and how their current frameworks assess victims' issues are set out below:
 - **HM Inspectorate of Constabulary, Fire, and Rescue Services (HMICFRS)** are responsible for assessing the effectiveness of police forces and fire and rescue services. Their assessment framework looks at forces' service for victims of crime.
 - **HM Crown Prosecution Service Inspectorate (HMCPPI)** are responsible for assessing the effectiveness of the CPS and the Serious Fraud Office. Their assessment framework includes looking at the quality of CPS legal decision-making, which they see as the aspect of CPS work that has the greatest impact on victims and witnesses.
 - **HM Inspectorate of Probation (HMI Probation)** inspects probation and youth offending services. Their assessment framework looks at whether relevant and timely information is provided to victims of a serious offence, and whether victims are given the opportunity to contribute their views at key points in the sentence.
 - **HM Inspectorate of Prisons (HMI Prisons)** assess prisons and young offender institutions. Their assessment frameworks consider whether relevant and accurate information is exchanged in a timely manner in statutory victim contact cases.
16. The inspectorates have their high-level functions set out in differing pieces of legislation, which broadly set out that an inspection framework and programme should be agreed to assess the efficiency and effectiveness of the agencies they oversee.
17. This legislation also sets out that the chief inspectors of the inspectorates should act jointly to prepare and undertake a "joint inspection programme". Criminal justice joint inspections are when the inspectorates work together to address issues that involve more than one criminal justice agency and have a direct impact on the public who use the justice system. It is felt that working together produces a more rounded examination of issues that cut across the system and enables the inspectorates to achieve more than when acting alone.
18. This programme is currently prepared by the chief inspectors, and the Home Secretary, Justice Secretary and Attorney General are required by law to be consulted on this programme. Those Ministers are also able to jointly specify the form the joint inspection programme is to take. There is no other indication of what this programme should cover within the legislation.

Issues

19. The work of the inspectorates is well established and, as described above, does include assessing victims' experiences to differing degrees. However, victims' issues form just one part of a broader assessment framework, and consultation responses noted that there is (a) insufficient focus on victims and (b) insufficient collaboration across the inspectorates on victims' issues. Information is not typically collated in a systematic way, nor routinely brought together across the inspectorates for overall analysis. Approaches to assessment, rating and performance improvement also vary.
20. There are concerns that this could mean some victims' issues are not effectively identified, in turn meaning that the inspectorates do not then provide recommendations which would enable agencies to address these issues, delivering the right level of service to victims.
21. There is no dedicated inspectorate for HMCTS. The Public Bodies (Abolition of HM Inspectorate of Courts Administration and the Public Guardian Board) Order of 2012 abolished HM Inspectorate of Court Administration (HMICA) and set out that any of the four remaining criminal justice inspectorates may inspect

any aspect of the Crown Court or Magistrates' Courts in relation to their criminal jurisdiction, which could have been inspected by HMICA. HMCTS have been assessed since then as part of joint thematic inspections but have not been inspected as part of inspectorates' own core assessments.

The role of the Victims' Commissioner for England and Wales

Overview

22. The Victims' Commissioner is a powerful voice for victims in the criminal justice system. The function of the Commissioner is to review the operation of the Victims' Code; promote the interests of victims and witnesses; and encourage good practice in the treatment of victims and witnesses.
23. The Victims' Commissioner is explicitly empowered to make recommendations to agencies within its remit, consult persons as is necessary, and make reports regarding the carrying out of their functions.
24. The Victims' Commissioner must provide an annual report each year to the Justice Secretary, Attorney General, and Home Secretary setting out how they have performed their statutory functions. In July 2021, the Victims' Commissioner laid their annual report before Parliament, though they are under no legal obligation to do so.
25. In practice, the Victims' Commissioner conducts research, obtains feedback from victims, and consults with government and non-government agencies to make recommendations to government on how it can protect victims and improve their treatment.³

Issues

26. The Victims' Commissioner's effectiveness in advocating for victims is currently hampered by the fact that criminal justice agencies and government departments are not required to respond to their recommendations.
27. The Domestic Abuse Commissioner role was created more recently in 2019, and certain agencies and government departments are under a duty to respond to their recommendations. The roles of the Domestic Abuse Commissioner and Victims' Commissioner are related, as they both are independent advocates for victims, and the position of the Victims' Commissioner should be seen alongside that as broadly similar.
28. The Victims' Commissioner's annual reports are not currently required to be laid before Parliament. They need only be sent to the Justice Secretary, Attorney General, and Home Secretary, and published, without any specifications as to when or how publication occurs. This limits the ability of Parliament to oversee the Victims' Commissioner and to hold criminal justice agencies and departments accountable for treatment of victims.

While one of the Victims' Commissioner's current statutory functions is to review the operation of the Victims' Code, they presently do not have the powers or resource to do so efficiently at a granular level.

Victims' complaints – 'MP filter' and the Parliamentary and Health Service Ombudsman

Overview

29. A victims' journey through the criminal justice system can be long, complicated and requires interacting with many different agencies. The Victims' Code entitles victims to complain to these agencies if they have not received what they are entitled to. Where victims feel their complaint has not been adequately resolved, they may want to escalate their complaints beyond these agencies.
30. The main entity to which victims can escalate their complaints is the central ombudsman for complaints against public bodies, the Parliamentary and Health Service Ombudsman (PHSO) in its capacity as the Parliamentary Commissioner for Administration.⁴ However, for the PHSO to be empowered to investigate a complaint, the complaint must be referred to it via a Member of the House of Commons. This requirement is known as the 'MP filter'.⁵ Therefore, for a victim to escalate their complaint against a criminal justice agency

• ³ Our work - Victims Commissioner

• ⁴ For many agencies, the PHSO is the only entity a victim can escalate their complaint to. Note also that while the PHSO cannot generally investigate complaints against the police, it can investigate complaints against the police if they are complaints that the police have failed to deliver a victim their Victims' Code right(s). Note also that it is not only victims that can make complaints to the PHSO. Broadly speaking, any person who wishes to complain about the maladministration of an entity within the Parliamentary Commissioner's remit may do so.

• ⁵ A victim need not refer their complaint via the MP of whom they are a constituent, but in practice this is often how complaints are referred. References to an 'MP' hereafter are references to a Member of the House of Commons only.

they must first contact and explain their complaint to their MP, and then wait for their MP to refer their complaint to the PHSO.

Issues

31. The 'MP filter' places an additional burden on persons, including victims, wishing to make complaints against public bodies to the PHSO. Research by PHSO on stakeholder views on the issue⁶ found that it:
 - is burdensome and confusing for members of the public, who struggle to understand how to complain (an issue that is amplified for marginalised communities);
 - is overly and unnecessarily bureaucratic;
 - causes additional delay to the process of complaining;
 - causes increased, unnecessary work for MPs' offices, who are often uninformed about their role regarding the PHSO; and
 - can directly obstruct access if MPs sometimes do not refer complaints to the PHSO.
32. Not everyone wants to contact their MP, and the PHSO has provided examples in their consultation response where persons do not want to contact their MP due to conflicting beliefs or low trust in government and Parliament. The PHSO also explains that the 'MP filter' can be particularly onerous for victims. For example, many victims will have undergone trauma, and requiring them to repeat their traumatic experiences to another person—with whom they will likely have no personal relationship—imposes an additional emotional and personal burden upon them.

Victim support services

Overview

33. We know that being a victim of domestic abuse, sexual violence and serious violence can have long-term effects on individuals' psychological, emotional and physical wellbeing. It is right that we give victims of these crimes the support that they deserve to rebuild their lives after traumatic offences. This is why the Victims' Code sets out the entitlement for victims to be referred to support services. These can cover advice, advocacy, and recovery and support services, which could be medical, therapeutic, practical and/or emotional, and are provided across both the public and voluntary sectors.
34. The commissioning landscape for victim support services outside of safe accommodation⁷ is complex. Support services can be commissioned by a mix of groups, with some commissioned nationally by government departments and/or NHS England (such as the domestic abuse helpline, rape support fund and Sexual Assault Referral Centres), and others commissioned locally by PCCs, Clinical Commissioning Groups (CCGs) and local authorities.
35. The Welsh Government already places a duty on devolved local authorities and health boards to collaborate to improve support for victims of gender-based violence, domestic abuse and sexual violence through the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

Issues

36. No framework or structure brings together the range of public sector bodies who provide support services to victims outside of safe accommodation.⁸ This means that in many cases, there is no coherent strategy across a local area to coordinate service provision. This can mean that victims find the range of services they access disjointed and difficult to move between. We also know that demand for services outstrips supply and that not all victims can access the right support in their local area. We have heard about some local areas which have developed forums that bring together commissioners of relevant services to approach issues strategically and jointly which has helped improve the local offer to victims, so the proposed approach below would build upon this best practice.

• ⁶ PHSO Response to MoJ Victims Bill Consultation, 3 February 2022: https://www.ombudsman.org.uk/sites/default/files/2022-02/PHSO_response_to_MoJ_Victims%27_Bill_consultation.pdf

• ⁷ We had described this as "community-based" support, although we are aware that there is provision of support to victims in other settings like hospitals so have used a broader term of victim support services throughout this document

• ⁸ A legislative framework for commissioning "accommodation-based services" for victims of domestic abuse and their children is set out in Part 4 of the Domestic Abuse Act 2021

The role of Independent Domestic Violence Advisors and Independent Sexual Violence Advisors (IDVAs and ISVAs)

Overview

37. IDVAs and ISVAs provide tailored, needs based support to victims of domestic and sexual abuse in order to recover and rebuild their lives. The ISVA and IDVA roles are distinct from one another. While there may be similarities (such as providing emotional and practical support), each role provides differing expertise, specialisms and requirements. This is all to support victims to make informed choices and stay engaged in the criminal justice system, should they choose to do so.
38. The Ministry of Justice provides the majority of funding for these roles via PCCs. We are investing further in victim support services, increasing funding to £185m by 2024/25, which will increase the number of ISVAs and IDVAs we fund from 700 to over 1000. ISVAs and IDVAs are also funded through local authorities, the NHS, and the third sector.

Issues

39. The roles of IDVAs and ISVAs have developed naturally over time, and government guidance on how these roles should operate is limited to non-statutory guidance for the ISVA role which was published by the Home Office in 2017.
40. There is, however, no comparative guidance covering the role of IDVAs. The absence of robust government standards has led to a sector of Advisors operating with differing abilities and under varying job titles, impacting the quality and consistency of support provided to victims. There is also a lack of awareness of the role and support provided by ISVAs and IDVAs by other agencies which is creating a barrier to effective collaboration in order to meet the unique needs of victims.

B. Policy Rationale and Objectives

41. The conventional approaches to government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules), where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more vulnerable groups in society).
42. The primary rationale for the options detailed in this Impact Assessment is equity: to ensure that victims of crime are fairly and consistently supported. Victim support services can help victims to recover, and also to engage with the criminal justice system should they wish to, supporting prosecutions and helping to achieve justice.
43. The associated policy objectives are to improve end-to-end support for victims of crime whether they choose to engage with the criminal justice process or not. This is so that (a) victims get the support they deserve and need to cope and recover, and (b) victims feel able to engage and remain engaged in the criminal justice system, and therefore support prosecutions to improve the effectiveness of the criminal justice system in England and Wales.
44. Our more specific aims to deliver the wider policy objective include:
 - Amplifying victims' voices in the criminal justice process.
 - Sending a clear signal about what victims can and should reasonably expect.
 - Strengthening transparency and oversight of criminal justice agencies performance in relation to victims, giving victims more effective redress and improving accountability for those responsible.
 - Improving support services and the consistency of those services for all victims, whether they choose to report the offence or not.

Affected Stakeholder Groups, Organisations and Sectors

45. A list of all the main groups that would be most affected by the measures in this Impact Assessment is shown below:
 - Victims of crime, their families, and other close associates.
Criminal justice agencies
 - Police services and other agencies who investigate criminal offences;

- The Crown Prosecution Service, and other agencies who prosecute criminal cases;
- HM Courts and Tribunals Service, which is responsible for the administration of the court system and the tribunal system in England and Wales;
- HM Prison and Probation Service, which carries out sentences given by the courts, in custody and the community;
- Youth Offending Teams, which help deliver youth services to prevent offending by children and young people.

Criminal justice inspectorates

- HM Inspectorate of Constabulary, Fire, and Rescue Services, which assesses the efficiency and effectiveness of police forces;
- HM Crown Prosecution Service Inspectorate, which assesses the efficiency and effectiveness of the CPS;
- HM Inspectorate of Probation, which assesses the efficiency and effectiveness of probation services;
- HM Inspectorate of Prisons, which assesses the efficiency and effectiveness of prisons.

Local bodies and health services

- Police and Crime Commissioners, who hold Chief Constables to account as to how they are discharging their functions, and who can commission support services to victims and witnesses of crime;
- Local authorities, who commission and provide a range of local services to residents, including some victim support services;
- NHS England, which sets the priorities and direction of healthcare in England, and directly commission some national services, including Sexual Assault Referral Centres;
- Clinical Commissioning Groups (soon to be replaced by Integrated Care Boards), which commissions local health services (such as hospital or community care) for their patients and population.

Other affected groups

- The Victims' Commissioner for England and Wales, which advocates for victims and promotes their interests and better treatment, and reviews operation of the Victims' Code;
- The Parliamentary and Health Service Ombudsman (PHSO), which performs the two distinct statutory roles of Parliamentary Commissioner for Administration and Health Service Commissioner for England, and is the central ombudsman for complaints against public bodies;
- Members of Parliament, who currently must refer complaints to the PHSO;
- Independent Domestic Violence Advisor and Independent Sexual Violence Advisor services, who provide specialist support to victims of domestic and sexual violence; and
- Other charitable and commercial organisations who provide support to victims in the criminal justice system.

46. Other agencies with primary responsibilities to deliver victims their entitlements under the Victims' Code will be affected by the changes to the Victims' Code, including: the Parole Board, which carries out risk assessments on prisoners to determine whether they can be safely released into the community; the Criminal Injuries Compensation Authority, which works to provide compensation for victims of violent crime; the Criminal Cases Review Commission, which investigates potential miscarriages of justice; and the Supreme Court, the final court of appeal for criminal cases from England, Wales, and Northern Ireland.

C. Description of Options Considered

47. In order to meet the policy objectives, eight options have been considered in isolation, and combination in this Impact Assessment:
- **Option 0:** Do nothing in legislation.
 - **Option 1:** Place the Code of Practice for Victims of Crime (Victims' Code) into legislation by placing the overarching principles of the Victims' Code on the face of the Bill, with a power to set out key entitlements of the Victims' Code in secondary legislation.
 - **Option 2:** Enhance local oversight of the Victims' Code and the role of PCCs.

- **Option 3:** Provide the Home Secretary, Lord Chancellor and Attorney General with the power to jointly direct a joint inspection programme to include the victim experience.
- **Option 4:** Amend the role of the Victims' Commissioner.
- **Option 5:** Remove the requirement for victims of crime to refer complaints to the Parliamentary and Health Service Ombudsman through their MP.
- **Option 6:** Place a duty on PCCs, local authorities and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, sexual violence and other serious violence.
- **Option 7:** Place ISVAs and IDVAs on a statutory footing through definitions in legislation and statutory guidance.

48. The preferred options are Options 1 to 7 inclusive, as these would best meet the policy objectives.

Option 0: Do nothing

49. This option would be to do nothing. This would mean that there would be no legislative changes to assist in ensuring victims of crime are fairly and consistently supported. Option 0 is therefore undesirable because it would fail to meet the policy objectives. It would not improve end-to-end support for victims of crime whether they choose to engage with the criminal justice process or not. It would not improve the support that victims deserve and need to cope and recover, nor improve how victims feel able to engage and remain engaged in the criminal justice system.

Option 1: Place the Code of Practice for Victims of Crime (Victims' Code) into legislation by placing the overarching principles of the Victims' Code on the face of the Bill, with a power to set out key entitlements of the Victims' Code in secondary legislation

50. This option would place the proposed key principles underpinning the Victims' Code into law and create a power to set out the key entitlements in Regulations. The agencies listed in the Victims' Code as responsible for delivering the associated entitlements would be subject to this. The key principles are:

- **ensuring victims are informed** – to ensure that victims can fully understand the criminal justice process, criminal justice agencies must pay due consideration to providing victims with the information they need throughout the entirety of their case, from reporting through to post-conviction.
- **ensuring victims are supported** – although victims do not have to report a crime to access support, when they do, the Victims' Code stipulates that victims must be referred to a service that helps them cope and recover, supports them during their journey at court, and assesses them as to whether they need any specialised assistance, such as eligibility for special measures.
- **ensuring victims have their voices heard** – victims must have their voices heard in the criminal justice process and be offered the opportunity to make a Victim Personal Statement to explain how the crime has had an impact on them.
- **Victims' Right to Review** – victims must be able to challenge decisions that directly impact them, and the Victims' Code specifies that they have the right to ask for a review under the National Police Chiefs' Council (NPCC) or CPS Victims' Right to Review Schemes, which allow complainants to request a review of certain decisions not to pursue a prosecution or to stop a prosecution.

Option 2: Enhance local oversight and the role of PCCs

51. This option contains four specific measures:

- Measure (a): Require relevant criminal justice agencies to collect data and keep under review their compliance with the Victims' Code.
- Measure (b): Require PCCs to take a convening role in monitoring compliance with the Victims' Code.
- Measure (c): Require relevant criminal justice agencies and PCCs to take into account the experiences of victims.
- Measure (d): Require PCCs and relevant criminal justice agencies to share compliance data with one another as part of the wider duty to keep under review their compliance with the Victims' Code.

52. Measure (a) would place an explicit duty on all relevant agencies to monitor their compliance with the Victims' Code by collecting data which assesses their performance in respect of delivering entitlements under the Victims' Code.
53. The relevant agencies this would apply to would be:
 - Police forces;
 - HMCTS;
 - HMPPS;
 - The CPS;
 - Youth Offending Teams.
54. Measure (b) would require PCCs to take a convening role in monitoring Victims' Code compliance. It is envisaged that PCCs would fulfil this function by collating agencies compliance data and chairing regular discussions with the relevant criminal justice bodies to analyse compliance at a local level, i.e. in each PCC's police area.
55. Measure (c) would require PCCs and the relevant agencies listed above to take into account the experiences of victims in relation to the services they deliver as service providers under the Victims' Code. Where data is not already available, we would like them to be able to collect feedback from victims in respect of all parts of the services they provide.
56. Measure (d): would require PCCs and relevant criminal justice agencies to share compliance data with one another as part of the wider duty to keep under review their compliance with the Victims' Code.

Option 3: Provide the Home Secretary, Lord Chancellor and Attorney General with the power to jointly direct a joint inspection programme to include the victim experience

57. This option would amend the criminal inspectorates' legislation to introduce the ability for the Home Secretary, Lord Chancellor and Attorney General to jointly direct there to be regular joint thematic inspections of victims' experiences of the criminal justice system, as they see fit. This would apply to all four criminal justice inspectorates (HMICFRS, HMCPSP, HMI Probation, and HMI Prisons).
58. The agencies which would be inspected as part of these joint thematic inspections are: the police; the CPS; the Probation Service; prisons; and HMCTS. The regularity and content of the inspections would be jointly directed by the Home Secretary, Justice Secretary, and Attorney General.

Option 4: Amend the role of the Victims' Commissioner

59. This option contains 3 specific measures:
 - Measure (a): Remove the Victims' Commissioner's function to keep operation of the Code of Practice for Victims of Crime (Victims' Code) under review.
 - Measure (b): Require the Victims' Commissioner to arrange for their annual report to be laid before Parliament.
 - Measure (c): Require public authorities to respond to direct recommendations in the Victims' Commissioner's annual report.
60. Measure (a) would remove the Victims' Commissioner's function to review operation of the Victims' Code, to avoid duplication with the proposed role for PCCs under option 2.
61. Measure (b) would require the Victims' Commissioner to arrange for their annual report to be laid before Parliament.
62. Measure (c) would impose a duty upon the specified organisations (defined below) to respond to any direct recommendations made within the Victims' Commissioner's annual reports. Those entities would be required to provide comments on the Victims' Commissioner's recommendations explaining how they will act (or have acted) in response to their recommendations or, if they will not do so, why that is the case.
63. The entities subject to the duty would be:
 - PCCs;
 - Police forces (including British Transport Authority and Ministry of Defence Police);
 - CPS;
 - HMCTS;
 - HMPPS;

- Parole Board for England and Wales;
- Criminal Cases Review Commission;
- Criminal Injuries Compensation Authority;
- HMIC;
- HMCPSI;
- HMI Prisons;
- HMI Probation;
- Any government department in the charge of a Minister.

Option 5: Remove the requirement for victims of crime to refer complaints to the Parliamentary and Health Service Ombudsman (PHSO) through their MP

64. This option would remove the ‘MP filter’ for complaints from victims of crime to be escalated to the PHSO in its Parliamentary Commissioner for Administration capacity. This would allow victims of crime to make complaints directly to the PHSO without having to refer their complaints via an MP. The option will still exist for the complainant to escalate their complaint to the PHSO through an authorised person, which can include an MP, if they feel they need assistance.

Option 6: Place a duty on PCCs, local authorities and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, sexual violence and other serious violence

65. This option would place a duty on PCCs, local authorities, and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, sexual violence and other serious violence. This option would also require PCCs, local authorities and Integrated Care Boards (which are replacing CCGs), to publish a local commissioning strategy as an outcome of this collaboration. This option would apply in England only, given the similar existing duty in Wales.

Option 7: Place ISVAs and IDVAs on a statutory footing through definitions in legislation and statutory guidance

66. This option would place ISVAs and IDVAs on a statutory footing by defining these roles in primary legislation, underpinned by individual statutory guidance which would include a duty on other agencies to take due regard to this guidance. Guidance would seek to set out the key functions of these roles and expected interactions with other agencies as well as minimum standards and best practice including how to support victims with protected characteristics.

E. Cost & Benefit Analysis

67. This Impact Assessment follows the procedures and criteria set out in the Impact Assessment Guidance and is consistent with Her Majesty’s Treasury Green Book guidance.
68. Where possible, Impact Assessments identify both monetised and non-monetised impacts on individuals, groups and businesses in Great Britain with the aim of understanding what the overall impact on society might be from the proposals under consideration. Impact Assessments place a strong focus on monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. Impacts in this Impact Assessment are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.
69. The costs and benefits of the options are compared to Option 0, the counterfactual or ‘do nothing’ option. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).
70. Given this is a Draft Bill Impact Assessment, the cost estimates presented in this Impact Assessment reflect the best information currently available and are subject to revision. It is intended that the costs will be refined, with an updated final Impact Assessment published alongside formal introduction of the Bill in due course. We will work with relevant agencies and other government departments to refine the measures and costs before that point.

71. Given the uncertainties mentioned above, the costs below have been estimated using high, low, and best scenarios to give an indication of what the costs of the relevant options would be.

72. The impacts in this Impact Assessment have been estimated as follows:

- Price base year of 2022/23
- 10-year appraisal period beginning 2023/24
- Discounting base year of 2022/23

Option 1: Place the Code of Practice for Victims of Crime (Victims' Code) into legislation by placing the overarching principles of the Victims' Code on the face of the Bill, with a power to set out key entitlements of the Victims' Code in secondary legislation

Costs of Option 1

73. Although raising the profile and visibility of the Victims' Code may lead to increased demand for associated services, we expect that as the agencies and organisations responsible for delivering the entitlements in the Victims' Code are already required to provide these entitlements, they would be expected to continue to do so via existing budgets. Therefore, although relevant organisations may wish to place a greater emphasis on delivering these entitlements, there are not anticipated to be any costs associated with this option.

Benefits of Option 1

74. Placing the overarching principles of the Victims' Code into legislation would raise the profile and visibility of the Victims' Code and send a clear signal about what victims can and should reasonably expect from the criminal justice system. Together with Options 2 and 3 this option would promote compliance with the Victims' Code and therefore better outcomes for victims.

Option 2: Enhance local oversight and the role of PCCs:

- **Measure (a): Require relevant criminal justice agencies to collect data and keep under review their compliance with the Victims' Code;**
- **Measure (b): Require PCCs to take a convening role in monitoring compliance with the Victims' Code;**
- **Measure (c): Require relevant criminal justice agencies and PCCs to take into account the experiences of victims;**
- **Measure (d): Require PCCs and relevant criminal justice agencies to share compliance data with one another as part of the wider duty to keep under review their compliance with the Victims Code.**

Costs of Option 2

Measure (a): Require relevant criminal justice agencies to collect data and keep under review their compliance with the Victims' Code

75. As criminal justice agencies already monitor Victims' Code compliance and have a responsibility to do so, making this requirement explicit would not lead to an additional burden on criminal justice agencies. There are therefore no costs associated with this measure.

Measure (b): Require PCCs to take a convening role in monitoring compliance with the Victims' Code

76. This measure would formalise PCCs' current role by creating a duty for them to chair local discussions on Victims' Code compliance. As PCCs already chair all but two LCJBs, they are already effectively undertaking the convening role in monitoring Victims' Code compliance.

77. It is therefore possible that there would be no additional costs involved with this measure. However, it may be the case that formalising this role would require extra resources for PCCs, particularly with regards to collating and analysing compliance data. The upper bound estimate is based on each of the 42 PCCs requiring an additional Senior Data Analyst to assist with this work⁹, giving a total cost of £1.73m. The estimated cost range for this measure is therefore £0 – £1.73m.

Measure (c): Require relevant criminal justice agencies and PCCs to take into account the experiences of victims

78. As criminal justice agencies already have systems in place to collect feedback from victims, we envisage that making this requirement explicit would not lead to an additional burden on criminal justice agencies but

• ⁹ Senior Data Analyst salary based on a recent job advertisement for Avon & Somerset PCC. On-costs of 22% have been added as per RPC guidance.

strengthen what already exists. There are therefore no costs to criminal justice agencies associated with this measure.

79. However, this is not something which all PCCs currently do on a regular basis, with PCCs taking different approaches and having varying data quality. The resource implications of this measure are therefore very uncertain at this time due to a lack of information on each PCC's approach. The low cost estimate assumes there would be no additional costs, with potentially only marginal impacts. The high cost estimate is based on each of the 42 PCCs requiring a further Senior Data Analyst to assist with this work¹⁰ (additional to the Senior Data analyst in measure (b)), giving a total cost of £1.73m. The estimated cost range for this measure is therefore £0 – £1.73m.

Measure (d): Require PCCs and relevant criminal justice agencies to share compliance data with one another as part of the wider duty to keep under review their compliance with the Victims' Code

80. As this measure would simply formalise existing data sharing between PCCs and criminal justice agencies, it is not anticipated to lead to additional costs. Any further data sharing encouraged as a result of this option would have marginal cost impacts.

Benefits of Option 2

Measure (a): Require relevant criminal justice agencies to collect data and keep under review their compliance with the Victims' Code

81. The only mention of monitoring Victims' Code compliance in existing legislation is the Victim Commissioner's function to review 'operation of the Victims' Code'. Whilst criminal justice agencies already collect data on, and analyse their compliance with the Victims' Code, placing an explicit obligation on all relevant bodies to monitor and collect Victims' Code compliance data would make it clear that individual agencies are responsible for ensuring compliance.

Measure (b): Require PCCs to take a convening role in monitoring compliance with the Victims' Code

82. PCCs already play a vital role in improving and championing services for victims and, since 2018, have been overseeing and monitoring Victims' Code compliance data. Formalising this role and requiring PCCs to take a convening role by chairing regular local discussions, would improve local cooperation, coordination and transparency. We believe that this is critical to improving support for victims and driving up performance. This would complement the above duty, ensuring local discussions take place to build a clear picture of whether agencies are meeting obligations under the Victims' Code and providing victims with a proper service.

Measure (c): Require relevant criminal justice agencies and PCCs to take into account the experiences of victims

83. Placing a duty on criminal justice agencies and PCCs would ensure that they systematically collect feedback from victims that use their services. Data on victims' experiences would help agencies and PCCs to drive up the quality of their services, and compliment and contextualise the Victims' Code compliance data.

Measure (d): Require PCCs and relevant criminal justice agencies to share compliance data with one another as part of the wider duty to keep under review their compliance with the Victims' Code

84. Data provision is patchy, and the current arrangement is not working well. Requiring the relevant agencies and PCCs to share compliance data would guarantee the provision of Victims' Code compliance data between parties, benefitting local discussions and ensuring collaborative working to improve delivery of the Victims' Code.

• ¹⁰ Senior Data Analyst salary based on a recent job advertisement for Avon & Somerset PCC. On-costs of 22% have been added as per RPC guidance.

Summary of Option 2

85. The deflated and discounted monetised costs of this option are summarised in the table below. The low and high cost estimates are presented, with the best estimate being the midpoint of the two. As the benefits are not monetised, they are not presented here.

Cost (£m)	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	Total
Low	0	0	0	0	0	0	0	0	0	0	0
High	3.3	3.2	3.1	3.0	2.9	2.8	2.7	2.6	2.5	2.5	28.8
Best	1.7	1.6	1.6	1.5	1.5	1.4	1.4	1.3	1.3	1.2	14.4

NPV (£m)	-14.4
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Option 3: Provide the Home Secretary, Lord Chancellor and Attorney General with the power to jointly direct a joint inspection programme to include the victim experience

Costs of Option 3

86. As the regularity and content of the inspections would be jointly directed by the Home Secretary, Lord Chancellor, and Attorney General, it is difficult to estimate the costs associated with this option. For the purpose of this Impact Assessment, it is assumed that an inspection would be required every 3 years.
87. Recent thematic inspections carried out by HMIC have cost approximately £1m per inspection. This is used as a proxy for the total cost of a joint thematic inspection across all inspectorates. It is assumed that costs would fall solely in inspection years. While the division of costs across inspectorates is uncertain, it is anticipated that the majority of costs would fall to HMIC and HMCPSI as they have more oversight of victim interactions. As the criminal justice inspectorates already coordinate to work on a joint inspection programme, which we envisage these thematic inspections on victims being part of, we do not envisage that there will be any additional costs associated with coordinating these separate bodies.

Benefits of Option 3

88. This option would strengthen transparency and oversight of criminal justice agencies’ performance in relation to victims, improving accountability for those responsible, and ultimately driving an improvement in the level of service provided to victims. It would deliver those benefits because it would assist with the following:
- Ensuring that there is an enhanced focus on assessing that the right level of service is provided to victims as part of the inspectorates’ assessments;
 - Ensuring that the inspectorates collaborate regularly on exploring the quality of service provided to victims;
 - Looking robustly at the quality of service provided to victims across the whole criminal justice system – managing to cover the end-to-end process rather than just looking at experience in silos; and
 - Providing the opportunity to closely examine key victim issues to consider them holistically.
89. This option would enable inspectorates to be more effective at: identifying key issues in relation to victims; understanding the cause of these issues and the best ways to address them; and, making recommendations that would ensure the right level of service is provided to victims.

Summary of Option 3

90. The deflated and discounted monetised costs of this option are summarised in the table below. For this option, no range is presented. As the benefits are not monetised, they are not presented here.

Cost (£m)	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	Total
Best	0	0.9	0	0	0.8	0	0	0.8	0	0	2.5

NPV (£m)	-2.5
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Option 4: Amend the role of the Victims' Commissioner:

- **Measure (a): Remove the Victims' Commissioner's function to keep operation of the Victims' Code under review;**
- **Measure (b): Require the Victims' Commissioner to arrange for their annual report to be laid before Parliament;**
- **Measure (c): Require public authorities to respond to direct recommendations made in the Victims' Commissioner's annual report.**

Costs of Option 4

Measure (a): Remove the Victims' Commissioner's function to keep operation of the Victims' Code under review

91. The measures set out under Option 2 would provide an alternative structure for reviewing operation of the Victims' Code, so this measure would remove this function from the Victims' Commissioner. There are therefore no costs associated with this measure.

Measure (b): Require the Victims' Commissioner to arrange for their annual report to be laid before Parliament

92. The Victims' Commissioner already produces an annual report, with its most recent annual report laid before Parliament in July 2021. There would be no additional cost in requiring all future annual reports to be laid before Parliament.

Measure (c): Require public authorities to respond to direct recommendations in the Victims' Commissioner's annual report

93. This measure would not require agencies or organisations to accept recommendations. If agencies wished to take forward a recommendation then, as with usual processes, they would need to consider doing so within existing resources, or seek out potential further funding. Recommendations which cannot be implemented within current budgets do not have to be implemented. Therefore, it is anticipated this measure would not lead to additional costs, with potentially only a marginal cost from developing a response.

Benefits of Option 4

94. It is intended that this option would:

- eliminate unnecessary duplication of the function of reviewing operation of the Victims' Code. It would allow the Victims' Commissioner to dedicate its resources to its other statutory functions of promoting the interests of victims and witnesses and taking steps to encourage good practice in the treatment of victims and witnesses.
- protect the interests of victims, and improve their treatment, by encouraging the public authorities specified in the annual report to respond to the Victims' Commissioner's recommendations. This should result in better local and national treatment of victims.
- increase government accountability in Parliament for treatment of victims by requiring the Victims' Commissioner's annual reports to be laid before Parliament.

Option 5: Remove the requirement for victims of crime to refer complaints to the Parliamentary and Health Service Ombudsman (PHSO) through their MP

Costs of Option 5

95. This option may lead to an increase in the number of complaints PHSO receives, however, it is not known to what extent the 'MP filter' is acting as a barrier to complaints. The scale of any potential increase is therefore uncertain. Although exact information on the number of complaints made by victims to the PHSO is not

collected, it is thought that the number of complaints received which relate to the Victims' Code is low and represents a small proportion of the overall number of complaints to the PHSO. Therefore, while there may be an increase in complaints from victims as the process will become simpler by removing the 'MP filter', the PHSO do not expect the volume of complaints to rise to a level which they are not able to handle via existing budgets. As such, no costs have been monetised.

Benefits of Option 5

96. The removal of the 'MP filter' would remove an unnecessary obstruction to access for justice for victims of crime wanting to escalate complaints against public bodies. It would empower victims wishing to make complaints, and enable the PHSO to investigate complaints that otherwise may not be made to it, leading to decisions and recommendations to help individuals as well as improve future government conduct and decision-making. It would particularly improve access to justice for victims, for whom approaching an MP to share a potentially traumatic experience is more likely to be a barrier to making a complaint.

Option 6: Place a duty on PCCs, local authorities and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, sexual violence and other serious violence

Costs of Option 6

97. Collaboration is expected to be achieved through regular meetings, enabling regular communication in relation to commissioning functions and production of a strategy to set out the approaches to this commissioning.
98. Costs to PCCs, local authorities and Integrated Care Boards (ICBs) which commission relevant services may arise from the duty to collaborate and the requirement to produce and publish a local commissioning strategy.
99. We expect that PCCs may convene relevant activity and this assumption is reflected in the cost assumptions below. ICBs are assumed to incur costs in the high scenario. In the low scenario it is assumed that the duty to collaborate and contribute towards a strategy are covered under their existing remit and so do not present a new burden.
100. Illustrative costs have been produced, to demonstrate how this duty might be met. In order to meet the duty to collaborate, there may need to be regular meetings between all three groups, it is assumed that PCCs with four or fewer local authorities will have fewer meetings per year than PCCs with five or more local authorities. Costs come from the time taken to attend meetings (assumed to be three hours). In the low scenario it is assumed one senior staff member attends per organisation, in the high scenario it is assumed an additional administrative staff member would attend.
101. Preparation time of two hours per senior staff member is costed, and costs associated with the time taken to schedule and plan the meetings are also included.
102. Time to develop the strategy would also incur costs. Following the approach of the Home Office's Serious Violence Duty (SVD) Impact Assessment, it is assumed that this will take three hours for every one hour of meeting time and will be incurred by PCCs, who will draft the strategy, and Local Authorities and ICBs, who will be expected to contribute towards the strategy.
103. Hourly wages (including on-costs) are used to calculate time spent attending and preparing for meetings as well as time taken to produce a strategy. The wages used are as followed:

Role	Hourly Wage (22/23 prices)	Source
PCC (Senior)	£52.54	Home Office Estimates (based on SVD IA)
PCC (Admin)	£18.42	ASHE Table 14.5a - 411
Local Authority (Senior)	£23.08	ASHE Table 14.5a - 3561
Local Authority (Admin)	£18.42	ASHE Table 14.5a - 411
ICB (Senior)	£33.30	ASHE Table 14.5a - 118
ICB (Admin)	£18.42	ASHE Table 14.5a - 411

104. Costs are produced within a range due to uncertainty, see section F for further detail on the assumptions and risks.
105. Annual costs, in constant prices, are estimated to be within a range of £0.46m to £0.70m, with a best estimate of £0.58m.

Benefits of Option 6

106. This option, underpinned by statutory guidance, would improve the provision of victim support services by enabling more holistic and better coordinated services in local areas. This collaboration when commissioning would facilitate regular communication, common understandings of local area needs through shared information, and more effective co-ordinated commissioning activity. It could also reduce duplication in commissioning processes and enable targeted use of resources across the groups.
107. The requirement for a strategy would improve transparency of the aims and approach across all groups for commissioning relevant services for victims of domestic abuse, sexual violence and serious violence in the area.

Summary of Option 6

108. The deflated and discounted monetised costs of this option are summarised in the table below. The low and high cost estimates are presented, with the best estimate being the midpoint of the two. As the benefits are not monetised, they are not presented here.

Cost (£m)	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	Total
Low	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.3	0.3	0.3	3.8
High	0.7	0.7	0.6	0.6	0.6	0.6	0.6	0.5	0.5	0.5	5.8
Best	0.6	0.5	0.5	0.5	0.5	0.5	0.5	0.4	0.4	0.4	4.8

NPV (£m)	-4.8
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Option 7: Place ISVAs and IDVAs on a statutory footing through definitions in legislation and supporting this with statutory guidance

Costs of Option 7

109. To enable continued innovation and meet the needs of victims, the statutory definitions of ISVAs and IDVAs introduced under this option would be broad and flexible. As such, there would be no associated costs.
110. There would also be no additional costs associated with the statutory guidance on ISVAs and IDVAs or the duty on other agencies to have due regard to this guidance as this would be limited to recommendations and examples of best practice.
111. There may, however, be minimal costs associated with other agencies familiarising themselves with the statutory guidance, as they update working practices and procedures. These costs are assumed to be minimal and therefore are not assessed in this Impact Assessment.

Benefits of Option 7

112. Defining ISVAs and IDVAs in primary legislation would aim to improve the formal recognition of these roles and improve the way other agencies interact with them to best support victims. Whilst the definitions would be broad to protect the flexibility of ISVAs and IDVAs to tailor to their victims' needs, this option would improve clarity on these roles and help raise their profiles to allow better recognition from victims, other agencies, funders, and commissioners. Underpinning these definitions with statutory guidance and a duty for other agencies to take due regard of this guidance would further support this by harnessing greater collaboration between agencies to provide

joined up and holistic support for victims. The guidance would also facilitate increased consistency of support and provide a useful and standardised tool to support the commissioning of ISVA and IDVA services.

Overall Summary Options 1-7

113. The recommended options are Options 1 to 7 inclusive. The NPV of each option is presented in the table below, as well as the overall NPV.

Option	NPV (£m)
Option 1: Place the Code of Practice for Victims of Crime (Victims' Code) into legislation by placing the overarching principles of the Victims' Code on the face of the Bill, with a power to set out key entitlements of the Victims' Code in secondary legislation.	0.0
Option 2: Enhance local oversight and the role of Police and Crime Commissioners (PCCs).	Low: 0.0 Best: -14.4 High: -28.8
Option 3: Provide the Home Secretary, Lord Chancellor and Attorney General with the power to jointly direct a joint inspection programme to include the victim experience.	-2.5
Option 4: Amend the role of the Victims' Commissioner.	0.0
Option 5: Remove the requirement for victims of crime to refer complaints to the Parliamentary and Health Service Ombudsman (PHSO) through their MP.	0.0
Option 6: Place a duty on PCCs, local authorities and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, sexual violence and other serious violence.	Low: -3.8 Best: -4.8 High: -5.8
Option 7: Place Independent Sexual Violence Advisors and Independent Domestic Violence Advisors on a statutory footing through definitions in legislation and statutory guidance.	0.0
Total	Low: -6.3 Best: -21.7 High: -37.1

F. Risks and Assumptions

114. The key assumptions behind the cost benefit analysis presented in this Impact Assessment are described below. There is a risk that, if the assumptions do not hold, the costs and benefits presented in this Impact Assessment could be higher or lower.

Option 1

- As the agencies and organisations responsible for delivering the entitlements in the Victims' Code are already required to provide these statutory entitlements, it is assumed there is no additional cost.
- Raising the profile and visibility of the Victims' Code may lead to increased demand for associated services. There is a risk that this cannot be delivered within current resource, despite this being a

current requirement. If additional resource was required, then there would be costs associated with this option.

Option 2

Measure (b): Require PCCs to take a convening role in monitoring compliance with the Victims' Code

- As PCCs are already effectively undertaking the convening role in monitoring Victims' Code compliance, the low cost estimate assumes there are no additional costs.
- The high cost estimate assumes that each of the 42 PCCs requires an additional Senior Data Analyst to assist with the additional work, at an annual cost of £33,732 per analyst (£41,153 with corresponding on-costs).

Measure (c): Require relevant criminal justice agencies and PCCs to take into account the experiences of victims

- As criminal justice agencies already collect feedback from victims, it is assumed that there are no costs to criminal justice agencies associated with this measure.
- The low cost estimate for PCCs assumes there would be no additional costs, with potentially only marginal impacts.
- The high cost estimate for PCCs assumes that each of the 42 PCCs requires an additional Senior Data Analyst to assist with the additional work (which would be supplementary to the additional Senior Data Analyst required for the above sub-option), at an annual cost of £33,732 per analyst (£41,153 with corresponding on-costs).

Option 3

- It is assumed that an inspection will be required once every 3 years, with costs falling only in inspection years. There is a risk that if inspections were required more frequently the costs of this option would be higher.
- HMIC have carried out a range of thematic inspections, with recent ones costing approximately £1m each. The HMIC £1m figure is used as a proxy for the total cost of a joint thematic inspection across all inspectorates.

Option 4

Measure (c): Require public authorities to respond to direct recommendations in the Victims' Commissioner's annual report

- As there would be no obligation for any entity to implement any particular recommendation, it is anticipated that there would be no additional costs, with potentially only a marginal cost from developing a response. Any costs for implementing a recommendation would have to be integrated into an existing budget or additional funds sought by the authority responsible.

Option 5

- The scale of any potential increase in the number of complaints PHSO receives is uncertain, as it is not known to what extent MPs currently act as a barrier. However, PHSO have said this could likely be met by their existing service provision.
- If this change results in many more complaints than anticipated, PHSO may be unable to meet this demand and there could be subsequent costs associated with additional resources. However, this is deemed unlikely due to the number of complaints currently received per year.

Option 6

- There are risks surrounding the assumptions used to form the costs of this option. The costs produced are illustrative to reflect what the costs could potentially be. If collaboration did not take place in the form of meetings or if more frequent meetings, with a greater number of attendees, were needed then the costs may be underestimated.

Option 7

- As the statutory definitions of ISVAs and IDVAs introduced under this option would be broad, it is assumed there are no additional costs.
- It is also assumed there would be no additional costs associated with the statutory guidance or the duty on other agencies to have due regard to this guidance as this would be limited to recommendations and examples of best practice.

G. Wider Impacts

Equalities

115. An Equality Impact Statement has been completed and will be published alongside this Impact Assessment.

Better Regulation

116. These measures are exempt from the Small Business Enterprise and Employment Act 2015 and will not count towards the department's Business Impact Target.

Environmental Impact

117. We expect there to be no environmental impact as a result of the recommended options.

H. Monitoring and Evaluation

118. The legislative measures detailed above will be commenced by regulation once the Government Departments and other organisations required have concluded the relevant preparations to accommodate the operational functionality of these changes. Further announcements about the timing of implementation will be made in due course following Royal Assent.

119. The Ministry of Justice has data collection processes in place to monitor the impact of victim support funded via PCCs and the Rape and Sexual Abuse Support Fund. There is also an existing monitoring framework in place for criminal justice agencies' compliance with the Victims' Code.

120. The government will monitor measures following implementation. The options set out in this Impact Assessment set out to improve data collection on Victims' Code compliance, and bolster local and national oversight of this data. As such, compliance with the Victims' Code will necessarily be monitored as part of these measures. With regards to improving complaints processes, the PHSO will aim to monitor the number of complaints received that relate to the Victims' Code. In the normal way the Act will be subject to post-legislative scrutiny five years after Royal Assent.

Annex “D” Draft Victims Bill – Equality Statement May 2022

Introduction

1. In December 2021, the Government launched ‘Delivering Justice for Victims’ – a consultation seeking views on how to improve victims’ experiences of the criminal justice system across England and Wales.¹¹ Our ambition is to build on the foundations provided by the Victims’ Code to substantially improve the system for victims and to ensure all victims of crime receive the support they need.
2. We are now publishing a draft Victims Bill to improve end-to-end support for victims of crime whether they choose to engage with the criminal justice process or not. This is so that (a) victims get the support they deserve and need to cope and recover, and (b) victims feel able to engage and remain engaged in the criminal justice system, and therefore support prosecutions to improve the effectiveness of this system.
3. This document considers the equalities impact of the legislative measures in the draft Victims Bill, drawing on evidence gathered through the consultation.
4. Through the consultation, we specifically asked respondents for their views on how the priorities and ideas set out could impact individuals with protected characteristics¹². At the end of the consultation, we specifically asked one overarching question, as to how far we had correctly identified the range and extent of the equalities impacts under the consultation. From the 156 direct responses to this question, over half (56%) fully agreed we had correctly identified these impacts, while the remaining 44% felt that there were some impacts which had not been identified either due to proposals not adequately addressing equalities issues, or because the consultation process itself, the survey, was not considered to be fully inclusive.
5. Further action was taken to ensure the document was as accessible as possible, including producing large print and British Sign Language versions of the consultation.

Evidence and analysis - context

6. As set out in our Victims Bill Consultation Equality Statement,¹³ some groups with protected characteristics are more likely to be victims of crime. This data is available at Annex A. We know that particular groups are significantly more likely to be over-represented among victims of crime, specifically those who are: male, disabled, single, separated, 16-24 and 25-34 years old, black/African/Caribbean/Black British, and those who have no religion and bisexual or ‘other’ sexual orientation (Crime Survey for England and Wales).
7. We also know that some victims with protected characteristics face specific challenges when engaging with support services or the criminal justice system, and some of the evidence that demonstrates this is set out below for context.
 - a. **Confidence in the Criminal Justice System:** One of the key themes of the Commission on Race and Ethnic Disparities (CRED) report and our government response to this was the need

¹¹ ‘Delivering justice for Victims’ – GOV.UK (December 2021)
<https://www.gov.uk/government/consultations/delivering-justice-for-victims-a-consultation-on-improving-victims-experiences-of-the-justice-system>

¹² Protected characteristics | Equality and Human Rights Commission (equalityhumanrights.com)

¹³ https://consult.justice.gov.uk/victim-policy/delivering-justice-for-victims/supporting_documents/victimsbillconsultationequalitystatement.pdf

to build trust and promote fairness, noting that at the moment too many people from ethnic minority backgrounds feel that the 'system' is not on their side.¹⁴

- b. **Access and awareness:** victims with protected characteristics may be less likely to be aware of, or able to access support for a number of reasons. For instance:
- Victims from black and ethnic minority backgrounds reported facing several barriers to accessing support including a lack of information about what services were available to them, fear of not being believed and not wanting to be judged by their community or to betray it. For some, it took between two to seven years to find the right help.¹⁵
 - Language barriers were also identified as a cultural issue for some black and ethnic minority victims accessing support services, with professionals highlighting that not all victims speak or understand English well enough to feel confident accessing services without interpreting provision.¹⁶
 - Mapping of domestic abuse services carried out by Galop and Durham University on behalf of the Domestic Abuse Commissioner's office, identified that service provision for LGBT victims is patchy.¹⁷
- c. **The importance of tailored support:** a consistent theme through the consultation responses, was the importance of tailored support, which we know may make support services more accessible to victims with protected characteristics, due to these services' ability to meet victims' complex needs. For instance:
- Almost all of the 36 women in a small-scale study by Imkaan spoke about the importance of victims 'seeing themselves' in the services they accessed, offering a sense of relatability and a sense of safety, which was more than physical safety.¹⁸
 - LGBT victims also highlight a need for the professional supporting them to be close to their own identity, such as being LGBT or LGBT- friendly.¹⁹
 - Victims with learning disabilities who received support from a learning disability specific ISVA reported improved health and wellbeing by receiving emotional support from a service which was adapted to meet their needs in ways other services did not.²⁰

Summary of proposals

The draft Victims Bill comprises of the following measures. Here we set out how these measures may impact victims who may experience particular barriers to accessing justice, or support services as a result of their protected characteristics.

Overarching principles of the Victims' Code

8. We are placing the overarching principles of the Victims' Code²¹ into law in the draft Victims Bill, will send a clear signal to all listed agencies that they must comply with delivering the Code, so victims better understand the level of service they can expect. The Victims' Code already stipulates that

¹⁴ <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities>

¹⁵ Thiara, R., & Roy, S. (2020) Reclaiming Voice: Minoritised Women and Sexual Violence Key Findings, Imkaan

¹⁶ Love et al. (2017) Improving access to sexual violence support for marginalised individuals: findings from the LGBT and BME communities, Critical and Radical Social Work

¹⁷ Galop-LGBT-Domestic-Abuse-Service-Provision-Mapping-Study-Final.pdf (domesticabusecommissioner.uk)

¹⁸ 2020+|+Reclaiming+Voice+-+Minoritised+Women+and+Sexual+Violence+[Key+Findings].pdf (squarespace.com)

¹⁹ Delle Donne, M., DeLuca, J., Pleskach, P., Bromson, C., Mosley, M., Perez, E., Matthew, S., Stephenson, R., & Frye, V. (2017) Barriers to and facilitators of help-seeking behaviour among men who experience sexual violence, *American Journal of Men's Health*; Harvey, S., Mitchell, M., Keeble, J., McNaughton, C., & Rahim, N. (2014) Barriers Faced by Lesbian, Gay, Bisexual and Transgender People in Accessing Domestic Abuse, Stalking and Harassment, and Sexual Violence Services. *Cardiff: NatCen Social Research*

²⁰ Safelink (2016) Evaluation of learning disabilities Sexual Abuse Support Services

²¹ <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

victims must be provided with services to assist them to understand and engage with the criminal justice process, without discrimination of any kind. This will make clear that all individuals who have suffered a crime must be treated as a victim first and foremost, regardless of barriers, such as having a protected characteristic, or insecure immigration status.

Duty for Police and Crime Commissioners (PCCs) and criminal justice agencies to monitor compliance with the Victims' Code

9. The consultation responses highlight how increased local cooperation, coordination, transparency, and strong national oversight, are key to improving support for all victims, including victims with protected characteristics. This is why we are introducing a duty on the relevant criminal justice agencies to collect data and keep under review their compliance with the Victims' Code, and require Police and Crime Commissioners to take a convening role in monitoring local Code compliance by chairing regular discussions with relevant local agencies. As part of this duty, PCCs and agencies will be required to take into account information from victims on their experiences to add to and contextualise Code compliance, so that there can be a better view of how the system is delivering for victims.
10. Current data collection methods provide a limited insight into whether victims, including which victims and their protected characteristics, are receiving their entitlements under the Victims' Code. The Bill measures on data collection further ensure we are fully understanding compliance with the Victims' Code, and whether all victims are getting equal access to services, and if not, allowing us to better respond to this.

Joint thematic inspections by criminal justice inspectorates on victims' issues

11. We are introducing an ability for the Home Secretary, Lord Chancellor, and Attorney General to direct the criminal justice inspectorates²² to include regular joint thematic inspections dedicated to assessing victims' experiences of the Criminal Justice System within their Criminal Justice Joint Inspection programme. As part of this they will be able to jointly direct inspectorates as to the timing and overall theme of these inspections. This will enable regular and detailed assessment of the quality of service provided to victims by the criminal justice agencies, including looking at the end-to-end experience rather than looking at different stages of the process.
12. This means that issues in the quality of service provided to victims will be more easily identified, and subsequently addressed, including for victims with protected characteristics. It also means that more data will be collected on victims, and depending on the issue being inspected, could potentially mean more data is captured on the quality of service provided to specific groups, which speaks to concerns raised in the consultation responses that there is not enough data captured.

Remove the need for victims of crime to raise a complaint via an MP

13. We are simplifying the complaints process by removing an existing requirement for complaints by victims of crime to the Parliamentary and Health Service Ombudsman (PHSO) — in its Parliamentary Commissioner capacity — to be referred via a Member of Parliament (MP), before the complaint can be investigated. The PHSO made clear in their consultation response that removing this 'MP filter' would simplify the process for victims with protected characteristics, who will often find it more difficult to refer a complaint via an MP.

Requirement for the Victims' Commissioner to lay their annual report in Parliament

14. We are requiring the Victims' Commissioner to arrange to have their annual report laid before Parliament. We are also imposing a new duty upon certain agencies and departments to formally respond to the annual report's recommendations. We are transferring the Victims' Commissioner's function to review operation of the Victims' Code at a local level to PCCs. The Victims' Commissioner will still be able to engage on Code compliance at a national level.

²² HM Crown Prosecution Service Inspectorate; HM Inspectorate of Constabulary and Fire & Rescue Services; HM Inspectorate of Prisons; HM Inspectorate of Probation

15. This will not change the way in which the Victims' Commissioner represents or advocates for the needs of all victims, and the role will still be there to represent all, including those with protected characteristics.

Joint statutory duty on PCCs, local authorities and health bodies to collaborate when commissioning victim support services

16. We are placing a statutory duty on PCCs, local authorities and Integrated Care Boards to collaborate when commissioning services in 'community-based' settings as well as other settings like hospitals, for victims of domestic abuse, sexual violence and other serious violence. This will facilitate a more strategic local approach to service commissioning. It will require the publication of a local commissioning strategy, to set out the aims and approach for commissioning relevant services from each agency.

17. The strategy will need to be informed by a number of factors, including relevant local needs assessments and specific consideration of the service needs of those with protected characteristics who may experience barriers to using generic support services, such as children, male victims, and other victims such as lesbian, gay, bisexual and transgender (LGBT), minority ethnic, deaf, or disabled victims. This addresses consultation responses which called for improvements to provision of tailored services, and for these to specifically be considered by local commissioners.

Statutory definition of the role of Independent Sexual Violence Advisor (ISVA) and Independent Domestic Violence Advisor (IDVA)

18. We know that advocates²³, including ISVAs and IDVAs with tailored expertise such as those with the skills to work with victims with learning difficulties, are hugely beneficial. Their tailored services send a clear message to victims that their personal experience matters, and that there is no expectation that victims should 'fit into' existing generic services²⁴. More broadly, these victim advocate roles are well recognised as improving all victims' journeys, with research showing that 93% of rape victims receiving support from an ISVA or other support services reported the offence to the police, compared to 54% without this support²⁵.

19. With this in mind we are introducing a statutory definition of Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs) – increasing their professional standing. The definition is framed to include specialisms for those working with victims with protected characteristics. We will introduce accompanying guidance for ISVAs and IDVAs in secondary legislation, recommending minimum standards, training expectations as well as best practice for interactions between other agencies. The draft Bill also imposes a duty on ISVAs, IDVAs and those who have functions relating to victims of criminal conduct, or the criminal justice system to take due regard for this guidance.

20. There was general agreement in consultation responses that providing clarity on the roles and functions of these roles was useful, particularly for those that work with victims with particular needs or protected characteristics such as children and young people. Therefore, sexual violence and domestic abuse victims with these characteristics may benefit more than others from the advocates measures.

²³ Victim advocates come in many forms, but will all largely provide a crisis intervention role, with the goal of improving safety of and reducing risk to the victim. Advocates also work to ensure that victims can make informed choices and enable access to a range of services and agencies, including the criminal justice system. Appendix 4: Literature Review - National scoping exercise of advocacy services for victims of violence against women and girls - gov.scot (www.gov.scot)

²⁴ <https://safelinksupport.co.uk/safelink2016/wp-content/uploads/flipbook/4/book.html#p=5>

²⁵ Rape survivors and the criminal justice system – Victims' Commissioners Office (October 2020), p.14. This is an association, rather than causal. Survivors may be more likely to report because they have an ISVA or those who report are more likely to be referred to an ISVA.

Public Sector Equality Duty (PSED) aims

21. We have considered the above draft Bill provisions in light of our Public Sector Equality Duty obligations. Key considerations are listed below.

Direct discrimination

22. We consider that the draft Victims Bill proposals are not directly discriminatory within the meaning of the Equality Act as they do not treat people less favourably because of their protected characteristics.

Indirect discrimination

23. We do not believe the provisions in the draft Bill will result in indirect discrimination, given they will be applied in the same way to all individuals in scope and are not considered likely to result in any particular disadvantage for anyone with a protected characteristic compared to those who do not share the protected characteristic.

24. This said, as we have detailed above, victims are more likely to specifically share some particular protected characteristics. While we anticipate the draft Bill measures should generate positive outcomes for these individuals, we remain mindful to ensure special consideration for these victims, and those working to support them, and will continue to engage with these groups as the draft Bill progresses.

25. Further, the duty to collaborate when commissioning community-based support services relates to victims of domestic abuse, sexual abuse and other serious violence only. This is to enable targeted focus on these particularly traumatic offences which have a high number of victims each year. These offences typically involve victims also accessing a range of services commissioned by more groups that would therefore benefit from more collaboration and coordination, such as health, local authorities and policing bodies.

Discrimination arising from disability and duty to make reasonable adjustments

26. Our assessment is that the draft Bill measures are not likely to result in any discrimination for those with disabilities. However, we recognise it is important that we continue to make reasonable adjustments for victims with disabilities to ensure appropriate support is always given.

27. For instance, while work to remove the MP filter for victims of crime when making complaints to the PHSO will help all victims, we remain conscious of the continued problems victims with protected characteristics may face in using this complaints mechanism. For example, complaints will still be required to be 'written' for the PHSO to be able to investigate them, and we acknowledge the disadvantage this gives people who cannot read, write, or for whom English is not their first language. The PHSO have indicated they will need time to make changes to their existing systems to manage the receipt of complaints directly from the public. Once this system is in place, and as part of ongoing consultation with the PHSO to improve outcomes for victims - especially those with disabilities - regarding criminal justice agencies, we will consult with PHSO to work towards amending the 'written' requirement for complaints to the PHSO in future.

Harassment and victimisation

28. We do not consider that the draft Bill measures will give rise to harassment or victimisation within the meaning of the Equality Act.

Advancing equality of opportunity

29. We anticipate the draft Bill is likely to advance equality of opportunity for all victims, particularly for those with protected characteristics identified from the data. We are, however, cognisant of the need to continue to improve the tailoring of support for all victims to ensure access for everyone.

30. Through introducing more powers and duties at the local level to provide oversight of the Victims' Code, we are increasing scrutiny of the delivery of the Code, to ensure everyone receives the level of service they can expect. Further to this, we are responding to calls from key stakeholders, including

the Victims' Commissioner to encourage better data sharing, by introducing a duty on Police and Crime Commissioners and criminal justice agencies. This will ensure that different groups are able to exercise their entitlements and receive equal access to services, giving us a better understanding of the needs of the demographics of the victim population.

- 31. The draft Bill measures on community-based services and advocacy will also enhance equality of opportunity. We will provide specific consideration of the service needs of those with protected characteristics and the barriers they may face in accessing more 'generic' support.
- 32. Through defining ISVAs and IDVAs, we will also ensure there is flexibility to account for the wide-ranging roles provided, including by 'by and for' tailored services for particular groups, such as LGBT, deaf, disabled and black and ethnic minority victims of domestic abuse and sexual violence.

Fostering good relations

- 33. The draft Victims Bill proposals, particularly those aimed at strengthening compliance with the Victims' Code and taking into account direct victim feedback, could assist with promoting understanding between people from different backgrounds, or with different, intersecting protected characteristics.
- 34. The draft Bill will also work to better ensure local agencies work together to commission services that work for everyone. This directly speaks to consultation responses that highlight how commissioners should have a greater understanding of the needs of their local populations, and better engagement with the services that can meet those needs.

Data limitations

- 35. While efforts have been made to source information related to the areas covered by the consultation, there are still gaps in our evidence base. We do not, for example, have a full picture of how well support services access victims with particular needs, what proportion of current complaints come from victims with protected characteristics, and whether these victims are more or less likely to receive their entitlements under the Victims' Code. This is something we will look to improve in future.
- 36. In light of our continuing duty to consider the equalities impacts of these proposals, we would welcome any further views, experiences and other new evidence from and about victims with the protected characteristics post publication of the consultation response, and as the draft Bill progresses through pre legislative scrutiny.

Annex A

Characteristics of adults who were victims of CSEW personal crime (excluding fraud and computer misuse) and all adults, year ending March 2019 CSEW

England and Wales	Adults aged 16 and over	
Personal characteristic ¹	Victims of personal crime (excluding fraud and computer misuse) ²	All adults ³
	Percentage	
Sex		
Male	53.8	49.0
Female	46.2	51.0
Age		
16-24	25.8	12.8
25-34	22.6	17.1
35-44	14.7	15.8
45-54	15.8	17.2
55-64	11.5	14.8

65-74	6.0	12.5
75+	3.5	9.9
Ethnic group		
White	87.3	86.3
Mixed/Multiple	2.0	1.4
Asian/Asian British	5.3	8.2
Black/African/Caribbean/Black British	4.4	3.0
Other ethnic group	1.1	1.1
Marital status		
Married/civil partnered	32.6	49.7
Cohabiting	14.8	12.8
Single	41.5	24.7
Separated	2.8	1.8
Divorced/legally dissolved partnership	5.4	5.2
Widowed	2.9	5.8
Disability⁴		
Disabled	22.9	16.9
Not disabled	77.1	83.1
Religion		
No religion	47.5	38.1
Christian	45.1	52.7
Buddhist	0.9	0.5
Hindu	0.9	1.6
Jewish	0.5	0.5
Muslim	4.0	5.3
Sikh	0.4	0.8
Other	0.7	0.5
Unweighted base - number of adults ⁵	1,276	34,163
Sexual orientation⁶		
Heterosexual/straight	91.3	96.0
Gay/lesbian	2.2	1.6
Bisexual	4.9	1.6
Other	1.5	0.8
Unweighted base - number of adults ⁷	1,118	27,366

Source: Office for National Statistics - Crime Survey for England and Wales

1. See Section 7.3 of the [User Guide](#) for definitions of personal characteristics.
2. Personal crime includes violence, robbery, theft from the person and other theft of personal property.
3. The general population figures are for those aged 16 and over and are based on the CSEW. As such, they may provide different estimates of the general population to the comparators used in other national statistics.
4. The definition of disability used is consistent with the core definition of disability under the Equality Act 2010. A person is considered to have a disability if they have a long-standing illness, disability or impairment which causes difficulty with day-to-day activities.
5. Unweighted base refers to respondent sex; other bases will be similar.

6. The terminology used to label this data has been changed to 'sexual orientation' from 'sexual identity' to align with terminology used in legislation (Equality Act 2010). Sexual Orientation is an umbrella concept which encompasses sexual identity, attraction and behaviour. This question described within this principle is based on a substantial body of research and is designed to capture self-perceived Sexual Identity. An individual could respond differently to questions on either sexual identity, attraction or behaviour. The measurement of Sexual Identity was identified within the research as the component of Sexual Orientation most closely related to experiences of disadvantage and discrimination. The question was not designed for specific or detailed studies of sexual behaviour or attraction where a series of more detailed questions and answer categories might be more appropriate.

7. The question on the sexual orientation of respondents is asked in the self-completion module of the questionnaire, which is only asked of 16-74 year olds. Therefore, the unweighted base for sexual orientation is lower.

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