

## Impact Assessment (IA), The Home Office

<b>Title:</b> Proposals to strengthen and improve the functioning of Serious Crime Prevention Orders (SCPOs) <b>IA No:</b> HO0425 <b>Other departments or agencies:</b> N/A	<b>Date:</b> 29 <sup>th</sup> November 2022
	<b>Stage:</b> Consultation
	<b>Intervention:</b> Domestic
	<b>Measure:</b> Primary Legislation
<b>RPC Opinion:</b> N/A	<b>Enquiries:</b> <a href="mailto:SeriousandOrganisedCrimeConsultation@homeoffice.gov.uk">SeriousandOrganisedCrimeConsultation@homeoffice.gov.uk</a>
	<b>Business Impact Target:</b> Not a regulatory provision

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

Net Present Social Value NPSV (£m)	N/A	Business Net Present Value BNPV (£m)	N/A	Net cost to business per year EANDCB (£m)	N/A
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#### What is the problem under consideration? Why is government intervention necessary?

SCPOs are a powerful tool for disrupting the activities of the highest-harm serious and organised criminals. However, SCPOs are not currently being used to maximum effect. National Crime Agency (NCA) data indicates that individuals subject to SCPOs offend over the entire range of serious and organised crime types. The greatest concentration of offences occur in relation to drugs, money laundering, fraud and firearms. Government intervention is required through primary legislation to make the proposed improvements to SCPOs.

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

The strategic objective is to disrupt serious and organised criminals and reduce serious crime. Policy objectives include, to improve: **1)** the application process for SCPOs and increase law enforcement agencies' (LEA) powers. More applications for an SCPO will be made in the full range of appropriate circumstances and **2)** the ongoing monitoring and enforcement of SCPOs to enable closer management of those involved in serious crime. Breaches will be detected and acted upon due to greater consistency across LEAs – effective once any future legislation is fully embedded.

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

**Option 1:** (Do-nothing), do not legislate. **Option 2:** Add to the list of organisations who can apply to the High Court for an SCPO. **Option 3:** Enable the Crown Court to make an SCPO on acquittal, on application from the Crown Prosecution Service (CPS) or the Serious Fraud Office (SFO). **Option 4:** Provide the courts with an express power to impose electronic monitoring, or 'tagging', as a condition of an SCPO. **Option 5:** Provide that all SCPOs automatically impose a prescribed set of notification requirements. **Option 6:** Introduce all the measures from **Options 2 to 5**.

<b>Main assumptions/sensitivities and economic/analytical risks</b>	<b>Discount rate (%)</b>	3.5
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The cost of prosecuting a breach of an SCPO is the main cost driver. The anticipated increase in SCPO volumes from **Options 2 and 3** are considerably uncertain. The number of electronic monitoring tags that would be used under **Option 4** and expected number of notification requirements required under **Option 5** are uncertain and are based on a proxy. Further data will be gathered at the consultation stage. A range of estimates reflects the degree of uncertainty.

**Will the policy be reviewed?** N/A **If applicable, set review date:** N/A

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

Signed by the responsible Minister:  Date: 29/11/22

## Summary: Analysis & Evidence

## Policy Option 2

**Description:** Enable HM Revenue and Customs (HMRC), the NCA and the police (in all cases) to apply to the High Court for an SCPO, alongside mandatory consultation with the Crown Prosecution Service (CPS).

### FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2022/23	Appraisal	10	Transition	0
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-0.00	High:	-0.06	Best:	-0.01	Best BNPV	N/A	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.00	N/A	0.00	N/A	N/A
High	0.06	N/A	0.06	N/A	N/A
Best Estimate	0.01	N/A	0.01	N/A	N/A

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

N/A

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

Estimated familiarisation costs to government lie in a range of **£0.00 to £0.06 million**, with a central estimate of **£0.01 million** in year 1 only. There may be additional Criminal Justice System (CJS) costs if this measure leads to additional applications for SCPOs to the High Court. Allowing the police (in all cases), the NCA and HM Revenue and Customs (HMRC) to apply for a High Court SCPO may increase their resource burden. There may be further CJS costs from future proceedings to vary any additional High Court SCPOs applications, and from prosecuting any breaches of these additional SCPOs.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	N/A	N/A	N/A	N/A	N/A
High	N/A	N/A	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A	N/A	N/A

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

N/A

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

We anticipate this measure will reduce serious crime through greater use of non-conviction SCPOs in the High Court, as restrictions will be placed on a greater number of people likely to commit serious offences. **Option 2** would streamline the application process by enabling the agency that wishes to obtain an SCPO to apply directly, alongside mandatory consultation with the CPS. This would be beneficial in cases where the agency is best placed to apply for an SCPO as they have the in-depth knowledge of the matter and the relevant technical subject matter expertise.

### BUSINESS ASSESSMENT (Option 2)

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

### PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2)

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

# Policy Option 3

**Description:** Enable the Crown Court to make an SCPO on acquittal, on an application by the CPS or the Serious Fraud Office (SFO)

## FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2022/23	Appraisal	10	Transition	0
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-0.3	High:	-1.8	Best:	-1.3	Best BNPV	N/A	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.00	0.26	<b>0.26</b>	0.03	N/A
High	0.01	1.76	<b>1.77</b>	0.18	N/A
Best Estimate	<b>0.00</b>	<b>1.26</b>	<b>1.26</b>	<b>0.13</b>	<b>N/A</b>

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

Estimated familiarisation costs to government lie in a range of **zero to £0.01 million**, with a central estimate of **£0.00 million** in year 1 only. Ongoing costs for **Option 3** will fall on the CJS and are estimated to range between **£0.26 and £1.76 million (PV)**, with a central estimate of **£1.26 million (PV)** over 10 years.

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

There may be additional CJS costs from future proceedings to vary the conditions on any SCPOs made on acquittal. There may be training costs as the CPS and SFO need to know that they can apply for an SCPO in these particular circumstances, but this would be negligible because the CPS and the SFO are already familiar with applying for SCPOs.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	N/A	N/A	<b>N/A</b>	N/A	N/A
High	N/A	N/A	<b>N/A</b>	N/A	N/A
Best Estimate	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

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

N/A

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

We anticipate efficiency savings for SCPO applicants following an acquittal, as applicants would no longer need to restart the process with a new SCPO application to the High Court following an acquittal by the Crown Court. We consider that this measure will result in an increased use of SCPOs, increased use of restrictions on those likely to commit serious offences and therefore a reduction in serious crime.

## BUSINESS ASSESSMENT (Option 3)

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

## PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 3)

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

## Policy Option 4

**Description:** Provide the courts with an express power to impose electronic monitoring (EM) as a condition of an SCPO.

### FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2022/23	Appraisal	10	Transition	0
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-0.06	High:	-2.10	Best:	-1.04	Best BNPV	N/A	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.00	0.06	<b>0.06</b>	0.00	N/A
High	0.04	2.06	<b>2.10</b>	0.2	N/A
Best Estimate	<b>0.01</b>	<b>1.03</b>	<b>1.04</b>	<b>0.1</b>	<b>N/A</b>

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

Estimated familiarisation costs to government lie in a range of **£0.00 to £0.04 million**, with a central estimate of **£0.01 million** in year 1 only. Ongoing costs of Electronic Monitoring (EM) from additional prosecution of breaches are estimated to cost between **£0.06 and £2.06 million (PV)**, with a central estimate of **£1.03 million (PV)** over 10 years. These costs will fall on the CJS.

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

The police and NCA will face increased costs for dealing with additional breaches of an SCPO. These will vary on a case-by-case basis. There will be implementation costs to government for any SCPOs that have EM restrictions imposed on them.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	N/A	N/A	<b>N/A</b>	N/A	N/A
High	N/A	N/A	<b>N/A</b>	N/A	N/A
Best Estimate	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

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

N/A

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

We anticipate that this measure will produce a reduction in serious crime due to improved monitoring and enforcement of SCPOs. This includes enhanced ability to monitor and disrupt the activities of persons subject to an SCPO, leading to increased detection of breaches and evidence of breaches for the purposes of bringing a prosecution. Better monitoring and enforcement will act as a deterrent to breach. Individuals prosecuted and convicted for breach will be prevented from carrying out further crime.

### BUSINESS ASSESSMENT (Option 4)

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

### PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 4)

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

# Policy Option 5

**Description:** Provide that all SCPOs automatically impose a prescribed set of notification requirements

## FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2022/23	Appraisal	10	Transition	0
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-0.01	High:	-0.08	Best:	-0.02	Best BNPV	N/A	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.00	0.01	<b>0.01</b>	0.0	N/A
High	0.07	0.01	<b>0.08</b>	0.0	N/A
Best Estimate	<b>0.01</b>	<b>0.01</b>	<b>0.02</b>	<b>0.0</b>	<b>N/A</b>

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

Estimated familiarisation costs to government lie in a range of **£0.00 to £0.07 million**, with a central estimate of **£0.01 million** in year 1 only. Ongoing costs for **Option 5** are estimated to range between **£0.01 and £0.01 million (PV)**, with a central estimate of **£0.01 million (PV)** over 10 years. These costs fall upon the NCA, the police, HMRC and the SFO, depending on which agency is leading on the monitoring and enforcement of the SCPO.

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

N/A

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	N/A	N/A	<b>N/A</b>	N/A	N/A
High	N/A	N/A	<b>N/A</b>	N/A	N/A
Best Estimate	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

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

N/A

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

We anticipate this measure will reduce serious crime through improved monitoring and enforcement of SCPOs, including improved case management of persons subject to an SCPO. There will be better consistency across different police force areas and other LEAs for monitoring SCPOs, including more consistent recording and sharing of standardised data on persons subject to an SCPO. Better monitoring and enforcement will act as a deterrent to breach.

## BUSINESS ASSESSMENT (Option 5)

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

## PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 5)

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

# Policy Option 6

Description: Introduce all, or a combination of, the proposals from Options 2 to 5.

## FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2022/23	Appraisal	10	Transition	0
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-0.3	High:	-3.7	Best:	-2.3	Best BNPV	N/A	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.02	0.30	<b>0.32</b>	0.03	N/A
High	0.14	3.60	<b>3.74</b>	0.37	N/A
Best Estimate	<b>0.11</b>	<b>2.14</b>	<b>2.25</b>	<b>0.22</b>	<b>N/A</b>

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

**Option 6** combines all monetised costs from all preceding options and takes into account the combination of a higher breach rate of SCPOs combined with additional applications for SCPOs. Estimated familiarisation costs to Government lie in a range of **£0.02 to £0.14 million**, with a central estimate of **£0.11 million** in year 1 only. Total ongoing costs are expected to be between **£0.32 and £3.74 million (PV)**, with a central estimate of **£2.25 million (PV)** over 10 years. These costs will fall on the Government.

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

**Option 6** combines all non-monetised costs from all preceding options.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	N/A	N/A	<b>N/A</b>	N/A	N/A
High	N/A	N/A	<b>N/A</b>	N/A	N/A
Best Estimate	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

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

N/A

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

**Option 6** combines the benefits from all preceding options.

## BUSINESS ASSESSMENT (Option 6)

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

## PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 6)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	Y
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# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Strategic objective

1. The measures proposed in this impact assessment (IA) are to improve the application process for SCPOs and improve the ongoing monitoring and enforcement of SCPOs, to better disrupt serious and organised criminals and to reduce serious crime. This will help to deliver on a number of overarching government strategic objectives, such as:
  - The Home Office “*People’s Priorities*” to cut crime and the harm it causes, including cyber-crime and serious and organised crime, and to protect vulnerable people and communities<sup>1</sup>;
  - The *Home Office Outcome Delivery Plan* priority outcomes to reduce crime (ODP1) and to protect the vulnerable from organised immigration crime (ODP4)<sup>2</sup>;
  - The Government’s manifesto<sup>3</sup> and 2021 Integrated Review of Security, Defence, Development and Foreign Policy (the Integrated Review)<sup>4</sup> commitment to strengthen the National Crime Agency so that it can tackle the multiple threats the UK currently faces;
  - The Beating Crime Plan<sup>5</sup> and Integrated Review, which set out the Government’s plans to reduce crime, enhancing our national security and prosperity, whilst sustaining our strategic advantage. The Integrated Review committed to bolstering the response to the most pressing serious and organised crime threats currently faced by the UK<sup>6</sup>. It also made a commitment to increase regional and local policing capacity<sup>7</sup>, including through a Home Office pilot to test a regional, multi-agency approach to the ongoing management of individuals subject to an SCPO<sup>8</sup>.

### A.2 Background

2. Serious Crime Prevention Orders (SCPOs) are provided for under Part 1 of the Serious Crime Act 2007<sup>9</sup> (SCA 2007). SCPOs are civil preventative orders which impose tailored prohibitions, restrictions and requirements on a person<sup>10</sup> for a period of up to five years to prevent or disrupt their involvement in serious crime. The terms of an SCPO might relate to, for example, business and financial dealings, use of premises or items, provision of goods or services, employment of staff, association with individuals, means of communication, or travel<sup>11</sup>. Breach of an SCPO is a criminal offence carrying a maximum penalty of five years’ imprisonment.
3. An SCPO can be made either by the Crown Court following a conviction or by the High Court in the absence of a conviction. Either court may only make an SCPO if it has reasonable grounds to believe

<sup>1</sup> Home Office, About Us, see: <https://www.gov.uk/government/organisations/home-office/about#priorities>

<sup>2</sup> Home Office Outcome Delivery Plan: 2021 to 2022, July 2021: see: <https://www.gov.uk/government/publications/home-office-outcome-delivery-plan/home-office-outcome-delivery-plan-2021-to-2022>

<sup>3</sup> The Conservative and Unionist Party Manifesto 2019: see: [https://assets-global.website-files.com/5da42e2cae7ebd3f8bde353c/5dda924905da587992a064ba\\_Conservative%202019%20Manifesto.pdf](https://assets-global.website-files.com/5da42e2cae7ebd3f8bde353c/5dda924905da587992a064ba_Conservative%202019%20Manifesto.pdf) – see page 19.

<sup>4</sup> Cabinet Office, Global Britain in a Competitive Age: The Integrated Review of Security, Defence, Development and Foreign Policy (“The Integrated Review”), March 2021: see [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/975077/Global\\_Britain\\_in\\_a\\_Competitive\\_Age\\_the\\_Integrated\\_Review\\_of\\_Security\\_Defence\\_Development\\_and\\_Foreign\\_Policy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/975077/Global_Britain_in_a_Competitive_Age_the_Integrated_Review_of_Security_Defence_Development_and_Foreign_Policy.pdf) - see second bullet on p83.

<sup>5</sup> Home Office, Beating Crime Plan, July 2021: <https://www.gov.uk/government/publications/beating-crime-plan>

<sup>6</sup> The Integrated Review, page 82

<sup>7</sup> The Integrated Review, page 83

<sup>8</sup> HM Treasury, Spending Review 2020, November 2020, see: <https://www.gov.uk/government/publications/spending-review-2020-documents/spending-review-2020#shared-outcomes-fund> – see section 9, bullet point 8

<sup>9</sup> Serious Crime Act 2007: <https://www.legislation.gov.uk/ukpga/2007/27/part/1>

<sup>10</sup> “Person” includes bodies corporate, partnerships and unincorporated associations as well as individuals.

<sup>11</sup> Other examples of suggested provisions which an SCPO may impose are published in the Crown Prosecution Service (CPS) SCPO Precedent Library: [https://www.cps.gov.uk/sites/default/files/documents/legal\\_guidance/SCPO-precedent-library.pdf](https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/SCPO-precedent-library.pdf)

that an order would protect the public by preventing, restricting or disrupting the individual's involvement in serious crime.

4. In England and Wales, an application for an SCPO can only be made by the Crown Prosecution Service (CPS), the Serious Fraud Office (SFO) or, in terrorism-related cases only, the police<sup>12</sup>.
5. The harm caused by SOC, including through drugs and firearms trafficking, child sexual abuse and exploitation, modern slavery, organised immigration crime, cyber-crime, money laundering and fraud is significant and ongoing. The NCA data on ancillary orders indicates that individuals managed under SCPOs offend over the entire range of SOC types, with greatest concentration of offences occurring in drug crime, money laundering, fraud, and firearms offences<sup>13</sup>. Any improvements to the SCPO regime may help to tackle a wide range of threat types and harms, which will positively affect the organisations, businesses, communities and individuals currently impacted by SOC, and may help to reduce the economic and social costs of SOC.
6. The main stakeholders who will be affected by these proposed measures are the agencies responsible for applying for, monitoring and enforcing SCPOs. Any improvements to the processes for obtaining an SCPO, and the monitoring and enforcement of SCPOs once they are in place, will help to ensure that these agencies have the right tools in the right scenarios to effectively manage the risk to the public posed by dangerous individuals involved in serious crime.

### **A.3 Groups Affected**

7. Currently, SCPOs are available UK-wide. However, the proposals in this consultation apply to England and Wales only. The following groups might be affected by the proposals:
  - Members of the public involved in serious crime.
  - Organisations, businesses, communities and individuals impacted by serious crime.
  - Defendants subject to an SCPO.
  - Police.
  - British Transport Police (BTP).
  - National Crime Agency (NCA).
  - His Majesty's Revenue and Customs (HMRC).
  - Crown Prosecution Service (CPS).
  - Serious Fraud Office (SFO).
  - His Majesty's Courts and Tribunals Service (HMCTS).
  - Legal Aid Agency (LAA).
  - His Majesty's Prisons and Probation Service (HMPPS).

### **A.4 Consultation**

#### **Within government**

8. The Home Office has engaged with other government departments and law enforcement agencies as part of the policy development process for the proposals within this consultation.

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<sup>12</sup> Schedule 12 of the Counter-Terrorism and Sentencing Act 2021 enables the police to apply to the High Court for an SCPO in terrorism-related cases, alongside mandatory consultation with the prosecuting authority:

<https://www.legislation.gov.uk/ukpga/2021/11/contents?schedule-12-paragraph-4-2-b>

<sup>13</sup> National Crime Agency, Ancillary Orders: <https://nationalcrimeagency.gov.uk/who-we-are/publications/495-nca-ancillary-order-register-1>



## Public consultation

9. The Government has launched a public consultation to seek views on the proposals contained within this IA. During the 8-week public consultation, the Home Office is particularly interested to hear from those who may be impacted by the proposals should they become legislation in England and Wales, including law enforcement practitioners, businesses, legal professionals and members of the general public, as well as non-governmental organisations with a focus on civil liberties and human rights.

## B. Rationale for intervention.

10. SCPOs are a powerful tool for preventing and disrupting the activities of the highest-harm criminals involved in serious crime. However, the orders are currently not being used to maximum effect.
11. A number of opportunities for improvement in the existing SCPO regime have been identified, including:
  - Applications to the High Court for SCPOs have been significantly lower than Parliament anticipated when it passed the SCA 2007.<sup>14</sup> Between 2011 and 2021, only two applications were made to the High Court for an SCPO in the absence of a conviction, of which only one was successful. In the same period, a total of 1,057 SCPOs were made by the Crown Court on conviction.<sup>15</sup> Government intervention is necessary to amend primary legislation with the aim of increasing the number of applications made to the High Court where appropriate in the interest of public safety, as organised criminal activity could be prevented through greater use of SCPOs.
  - Monitoring and enforcement of SCPOs is currently inconsistent across different police forces in England and Wales. For example, the 2016 HM Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) PEEL Police Effectiveness report found that only 13 of the 43 police forces had clear arrangements in place for monitoring SCPOs.<sup>16</sup> Government intervention will result in an improvement to the monitoring and enforcement of SCPOs by standardising the personal information which LEAs record in relation to individuals subject to an SCPO, leading to improved consistency of case management and information sharing between LEAs, and by enhancing LEA's ability to closely monitor and disrupt the activities of persons subject to an SCPO, which will help to prevent serious crime from taking place.
12. Without any government intervention to amend the current legal regime for SCPOs, the volume of High Court SCPOs may continue to be lower than Parliament anticipated when it passed the SCA 2007 and SCPOs may continue to be inconsistently monitored and enforced across LEAs, meaning that the public may sometimes be left inadequately protected from the threat of serious crime. Government intervention will enforce more consistent monitoring standards for SCPOs and will improve the application process for SCPOs, leading to improved use of SCPOs and a reduction in serious crime.

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<sup>14</sup> The Explanatory Notes to the 2007 Act state that "the main route for making an order will be an application to the High Court". In addition, at Lords Committee Stage of the Serious Crime Bill, Baroness Scotland of Asthal stated that operational stakeholders had indicated that there may be 25 or 30 such orders – see Hansard, Volume 690, 7 March 2007: [https://hansard.parliament.uk/Lords/2007-03-07/debates/07030790000002/SeriousCrimeBill\(HL\)](https://hansard.parliament.uk/Lords/2007-03-07/debates/07030790000002/SeriousCrimeBill(HL))

<sup>15</sup> These figures have been sourced from HMCTS Management Information, covering the period 2013 to 2021. This data has not been subject to quality assurance in line with the Code of Practice for Statistics and should be treated as indicative.

<sup>16</sup> His Majesty's Inspectorate of Constabulary, PEEL: Police Effectiveness 2016, March 2017:

<https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/peel-police-effectiveness-2016.pdf> - see page 112.

## C. Policy objectives

13. The two overarching policy objectives of the proposals on SCPOs in this consultation are to improve the application process for SCPOs and to improve the ongoing monitoring and enforcement of SCPOs by LEAs, to better disrupt serious and organised criminals and to reduce serious crime..
14. The timeframe for both of these policy objectives to be achieved would be following a familiarisation period for frontline practitioners, during which any legislative changes would be fully embedded.

### **Improve the application process for SCPOs:**

15. This policy objective includes making it easier for the frontline agencies (for example, those leading the investigation into the conduct which gave rise to the need for an SCPO, but not to any criminal proceedings) to apply to the High Court for an SCPO. A measure of success against this objective would be an increase in the number of applications made to the High Court for an SCPO.
16. This policy objective also includes streamlining the process for obtaining an SCPO following an acquittal for a serious offence by the Crown Court, so that SCPOs are more easily available to frontline practitioners in these circumstances as appropriate. A measure of success against this objective would be an increase in the number of applications made for an SCPO following acquittal for a serious offence by the Crown Court.
17. We anticipate that improving the application process for SCPOs will lead to a reduction in serious crime as it will lead to greater use of SCPOs. In turn we anticipate that the greater number of SCPOs will prevent future serious crime through placing restrictions on those likely to commit serious offences.

### **Improve the ongoing monitoring and enforcement of SCPOs:**

18. This policy objective includes increasing LEAs' ability to closely and proactively monitor the activities of the highest-harm serious and organised criminals, and to provide robust evidence to the court in the event that the conditions of the SCPO are breached. A measure of success against this objective would be an increase in the number of breaches of an SCPO which are detected and responded to by LEAs, as well as an increase in the number of prosecutions taken forward for breach of an SCPO.
19. This policy objective also includes ensuring greater consistency in the way individuals subject to an SCPO are managed, and risk assessed, by LEAs by standardising the information which they record in relation to the subject of an SCPO. A measure of success against this objective would be that all LEAs with ownership of monitoring and enforcing SCPOs record the same basic information in relation to the subject of an SCPO.
20. We anticipate that improving the ongoing monitoring and enforcement of SCPOs will lead to a reduction in serious crime as it will have a deterrent effect on individuals subject to an SCPO from breaching their order, and also will lead to increased detection of breaches and prosecutions for breach.

## D. Options considered and implementation.

### Option 1: (Do-nothing)

21. **Option 1** would entail no further government intervention through changes to the legislation for SCPOs under Part 1 of the SCA 2007. SCPOs would continue to be applied for and used under current procedures. Costs and benefits for the other options assessed in this IA are measured relative to the 'Do-nothing' position (which represents the counterfactual in this analysis). **Option 1** does not meet the Government's objectives.

### Non-regulatory option

22. A non-regulatory option has not been included in this IA. This is because the policy objectives could not be achieved through non-legislative means.
23. In relation to **Option 5**, it could be argued that, instead of providing in legislation that all SCPOs impose a prescribed set of notification requirements, guidance could be produced advising all applicants for an SCPO to seek a list of suggested notification requirements. However, this alternative measure would not achieve the main policy objective of ensuring guaranteed consistency across all SCPOs to support the effective management of the orders by LEAs.

### Option 2: Adding to the list of organisations who can apply to the High Court for an SCPO.

24. This proposal is to enable HMRC, the NCA, the police (in cases other than terrorism)<sup>17</sup> and BTP to apply to the High Court for an SCPO. HMRC, the NCA and the police would be required by law to consult with the CPS regarding their application.
25. An SCPO can be made by the High Court in the absence of a criminal conviction. Under current legislation, the only agencies who can make an application to the High Court for an SCPO are the CPS, the SFO, or, in terrorism-related cases only, the police. If HMRC, the NCA, BTP, or, in non-terrorism-related cases, the police, want to obtain an SCPO against an individual in the absence of a criminal conviction, they must make a referral to the CPS (or the SFO as appropriate)<sup>18</sup> to make an application on their behalf.
26. The aim of adding these agencies to the list of parties who can apply to the High Court for an SCPO is to ensure that the frontline agencies leading the investigation into the relevant conduct can apply directly to the High Court themselves where an SCPO is considered appropriate. It is considered likely that in many cases where criminal proceedings are not being pursued, these agencies may be best placed to lead the process of applying for an SCPO as they already have the in-depth knowledge of the case and the relevant technical subject matter expertise.
27. We anticipate there will be a reduction in serious crime as this proposal will lead to greater use of non-conviction SCPOs in the High Court. In turn we anticipate that the greater number of SCPOs will prevent future serious crime through placing restrictions on those likely to commit serious offences.

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<sup>17</sup> Section 43 and Schedule 12 of the Counter-Terrorism and Sentencing Act 2021 amended the Serious Crime Act 2007 to enable the police to apply to the High Court for an SCPO in terrorism-related cases, alongside mandatory consultation with the prosecuting authority: <https://www.legislation.gov.uk/ukpga/2007/27/contents>

<sup>18</sup> To note: Based on initial internal engagement with the Serious Fraud Office (SFO), the SFO has not made an application to the High Court for an SCPO to date.

**Option 3: Enable the Crown Court to make an SCPO on acquittal, on application from the CPS or the SFO.**

28. Under current legislation, the Crown Court can only make an SCPO when dealing with a person who has been convicted of a serious crime, not where that person has been acquitted.
29. For example, if an individual is acquitted by the Crown Court, but there is still considered to be evidence of a need for an SCPO, the applicant would have to 'start again' with a new application to the High Court.
30. Such cases may include circumstances where the individual has been found not guilty of a serious offence by the Crown Court, but there is still evidence that they have been involved in serious crime and there are reasonable grounds to believe that an SCPO would protect the public.
31. This proposal would streamline the existing SCPO process by enabling the Crown Court to make an SCPO on acquittal where appropriate. We consider that in these circumstances the Crown Court will often be best placed to decide whether to make an SCPO against an individual which it has acquitted, given that it is this court which will have heard the evidence relating to the individual's activity.
32. As a result, we consider this measure will lead to a small increase in the number of SCPOs made, by facilitating greater use of SCPOs following acquittal and making it easier to apply for an SCPO in this scenario. We anticipate there will be a reduction in serious crime as the proposal will lead to greater use of SCPOs, and in turn will prevent future serious crime through placing restrictions on those likely to commit serious offences.

**Option 4: Provide the courts with an express power to impose electronic monitoring, or 'tagging', as a condition of an SCPO.**

33. Under current legislation, SCPOs can impose any requirements which the court considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the person concerned in serious crime. However, in the absence of an express legislative power to do so, the circumstances in which a court might consider imposing electronic monitoring (EM, or 'tagging') are limited<sup>19</sup> – that is why the Home Office proposes to provide the courts with an express legislative power to impose EM as a condition of an SCPO.
34. Tagging the subject of an SCPO could be used to monitor their compliance with other relevant conditions of the SCPO – such as an exclusion zone, a curfew, or travel restrictions – and/or, for the highest risk individuals, as a standalone location monitoring requirement to monitor the subject's whereabouts.
35. The requirements of an SCPO are tailored by the court based on the specific facts of each individual case, depending on the nature of the individual's activity and the risk which they pose to the public. Evidence suggests that currently only a small proportion of SCPOs will impose restrictions which can be monitored through tagging. However, where the court is satisfied that imposing EM is a proportionate intervention based on the level of risk posed by the individual (amongst other factors), EM would have a significant beneficial impact on LEAs' ability to closely monitor compliance with the terms of SCPOs, manage the risk posed by the highest risk individuals and to provide robust evidence in the event that the relevant conditions of the SCPO are breached.
36. We anticipate that there will be a reduction in serious crime due to improved monitoring and enforcement of SCPOs, through enhanced ability to monitor and disrupt the activities of persons subject to an SCPO. Better monitoring and enforcement will act as a deterrent to breach, and individuals who are prosecuted and convicted for breach will be prevented from carrying out further crime.

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<sup>19</sup> See *R (on the application of Richards) v. Teesside Magistrates' Court and Chief Constable of Cleveland Police* (2015) 179 JP 119: <https://www.bailii.org/ew/cases/EWCA/Civ/2015/7.html>

**Option 5: Provide that all SCPOs automatically impose a prescribed set of notification requirements.**

37. As set out above, under current legislation SCPOs can impose any requirements which the court considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the person concerned in serious crime. This includes requirements to notify personal information, such as notification of communications devices, vehicles, sources of income, travel outside the UK, places of residence, business premises and business interests.
38. The aim of providing that all SCPOs impose a prescribed set of notification requirements is to standardise the personal information which individuals subject to an SCPO are required to notify, and which LEAs then record. This will lead to greater consistency in the way this cohort is managed and may also improve LEAs' ability to proactively manage SCPO cases and to effectively share information with each other – this is particularly important when persons subject to an SCPO move between different geographical or police force areas or between different stages of the criminal justice system, such as between custody or being on licence in the community.
39. We anticipate there will be a reduction in serious crime due to improved monitoring and enforcement of SCPOs, through improved case management of persons subject to an SCPO and improved recording and sharing of data between LEAs.
40. Under this proposal, in addition to any prescribed notification requirements which would be imposed as standard, the court would continue to be able to impose any further, tailored notification requirements depending on the circumstances of each individual case.

**Option 6: Introduce all of, or a combination of, the measures from Options 2 to 5**

41. It is possible that all of, or a combination of, these options could be pursued to improve the application process for SCPOs and improve monitoring and enforcement of SCPOs, to better disrupt serious and organised criminals and to reduce serious crime.

## **E. Appraisal**

### **General assumptions and data**

42. The general assumptions are as follows:
  - The appraisal period for measuring the impacts of the proposed changes to SOC powers is 10 years. The appraisal period starts in 2022/23.
  - A 3.5 per cent per year social discount rate is used.
  - Per year costs and benefits are in 2022/23 prices.
  - All costs and benefits are relative to **Option 1** (Do-nothing) .

## Appraisal

43. The main desired benefit of these four policy options, both individually and as a combined package, is to reduce serious crime. (NCA data on ancillary orders indicates that the greatest concentration of serious offences leading to post-conviction SCPOs occurs in drug crime, firearm offences, money laundering and fraud.) The policy options appraised are intended to reduce the number of serious offences by increasing the volume and enhancing the management of offenders under SCPOs, which are targeted at individuals at high risk of further offending. At this point in time, there are no monetised benefits to any of the options described due to data limitations. The consultation exercise and further engagement with operational stakeholders will be used to gather information so that a more robust assessment of costs and benefits can be made in the final stage IA.

## Option 2

### Costs

#### Set-up costs

#### Familiarisation costs

44. One-off familiarisation costs are expected, as changing the legislation to add HMRC, the NCA, BTP and the police (in non-terrorism-related cases) to the list of organisations who can apply for the High Court for an SCPO will mean that lawyers, judges and other legal professionals will have to familiarise themselves with how the new legislation affects the application process for SCPOs. The familiarisation costs should occur only in year 1 after the implementation of the legislation. This familiarisation spend will support smooth implementation of legislative changes which aim to ensure that in the absence of any criminal proceedings the frontline agencies leading the investigation into the relevant conduct can apply directly to the High Court themselves, rather than the CPS making an application on the agency's behalf. We anticipate that there will be a reduction in serious crime as a result, as this proposal will encourage greater use of non-conviction SCPOs which place restrictions on individuals likely to commit serious offences.
45. Documentation associated with this legislative change, including the legislative provisions and Explanatory Notes to any future Act, are estimated to be between 600 and 1,600 words with a central estimate of 1,100 words. This estimate has been made by reference to section 43 of the Counter-Terrorism and Sentencing Act 2021<sup>20</sup> (CTSA 2021) and section 171 of the Police, Crime, Sentencing and Courts Act 2022<sup>21</sup> (PCSCA 2022). The length of any legislative provisions and accompanying Explanatory Notes will be dependent on the finalised policy proposals and the drafting of the particular legislative provisions. Low, central and high estimates of familiarisation costs have been based on the number of words in the document, the number of readers of the document, the time this will take to read and the salary of the readers. The number of readers for this document has been based on the number of solicitors at CLA (criminal legal aid) firms and barristers working in full-time practice. In 2018/19 there were 11,760 solicitors working for CLA firms and 2,690 barristers in full-time CLA practice.<sup>22</sup> Around half of CLA firms have business in other legal areas, so a solicitor in a CLA firm may not necessarily be working in CLA and may not read the legislation.<sup>26</sup> Therefore, in the absence of more accurate data, the low, central and high scenarios take a proportion of 25, 50 and 75 per cent respectively of the number of solicitors and barristers. The median hourly pay for a full-time solicitor is £23.69, we have taken the 25<sup>th</sup> and 75<sup>th</sup> percentiles as the low and high estimate at £18.15 and £31.30 respectively. For a barrister the median hourly wage is £20.46, with low and high estimates of £14.79 and £27.03 respectively.<sup>23</sup>

<sup>20</sup> [Counter-Terrorism and Sentencing Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2021/43)

<sup>21</sup> [Police, Crime, Sentencing and Courts Act 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2022/17)

<sup>22</sup> Sir Christopher Bellamy, Independent Review of Criminal Legal Aid, November 2021: [Independent Review of Criminal Legal Aid - Report \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/101111/independent-review-of-criminal-legal-aid-report.pdf)

<sup>23</sup> Office for National Statistics, 2021, Earnings and hours worked, occupation by four-digit SOC: ASHE Table: [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Swyddfa Ystadegau Gwladol \(ons.gov.uk\)](https://www.ons.gov.uk/people-in-work/earnings-and-hours/tables/earnings-and-hours-worked-by-occupation-by-four-digit-soc)

Using these inputs, the total familiarisation costs range from **£1,300** to **£56,200** with a central estimate of **£11,700** in year 1 only. This is shown in Tables 1 and 2.

**Table 1, Estimated solicitor familiarisation cost, volume, £, £ million, 2022/23 prices.**

	Number of readers	Hourly cost of solicitor (£s)	Time spent reading (hours)	Total familiarisation cost (£)	Total familiarisation cost (£ million)
Low	2,940	18.15	0.02	1,100	<b>0.00</b>
Central	5,880	23.69	0.07	9,800	<b>0.01</b>
High	8,820	31.30	0.17	46,900	<b>0.05</b>

Source: Home Office internal estimates.

**Table 2, Estimated barrister familiarisation cost, volume, £, £ million, 2022/23 prices.**

	Number of readers	Hourly cost of barrister (£s)	Time spent reading (hours)	Total familiarisation cost (£)	Total familiarisation cost (£ million)
Low	673	14.79	0.03	200	<b>0.00</b>
Central	1,345	20.46	0.07	1,900	<b>0.00</b>
High	2,018	27.03	0.17	9,300	<b>0.01</b>

Source: Home Office internal estimates.

### Total familiarisation cost

46. Total familiarisation costs for **Option 2** are estimated to lie in a range of **£0.00 to £0.06 million**, with a central estimate of **£0.01 million** (2022/23 prices) in year 1 only.

### Non-monetised costs

#### Set-up Costs

47. There are likely to be training costs for the NCA, HMRC, BTP and the police, as they will need to know that they can apply to the High Court for an SCPO and that they must consult the CPS regarding their application. There are also likely to be training costs for the CPS as they will need to know that they must be consulted by these agencies before making an application to the High Court for an SCPO. There are also likely to be training costs for His Majesty's Courts and Tribunal Services (HMCTS) operational staff involved in running the High Court proceedings to hear the applications for SCPOs. These costs are likely to be negligible as only a subset of NCA, HMRC, police, BTP, CPS and HMCTS staff would be involved in using SCPOs. Furthermore, the proposal is for a change to an existing regime, and the relevant NCA, HMRC, police, BTP, CPS and HMCTS staff are already familiar with using SCPOs. In the case of the police, they can already apply directly to the High Court for an SCPO in terrorism-related cases. Further data will be gathered through further engagement with operational stakeholders. This training spend will support smooth implementation of legislative changes which aim to ensure that in the absence of any criminal proceedings the frontline agencies leading the investigation into the relevant conduct can apply directly to the High Court themselves, rather than the CPS making an application on the agency's behalf. We anticipate that there will be a reduction in serious crime as a result, as this proposal will encourage greater use of non-conviction SCPOs which place restrictions on individuals likely to commit serious offences.

## Ongoing costs

### Criminal Justice System (CJS) costs

48. By adding to the list of organisations who can apply to the High Court for an SCPO (NCA, HMRC, BTP and the police in non-terrorism-related cases), it should facilitate the greater use of non-conviction SCPOs by these organisations. It is therefore expected that there will be an increase in the number of SCPOs. Additional applications for SCPOs generate potential costs for the CJS<sup>24</sup> through: changes to the conditions of additional SCPOs; prosecuting breaches of these additional SCPOs; and potentially custodial sentences or probation following conviction for breach of these additional SCPOs. We anticipate that this spend will lead to a reduction in serious crime, as this proposal will encourage greater use of non-conviction SCPOs which place restrictions on individuals likely to commit serious offences.
49. Due to the lack of High Court SCPO applications to date<sup>25</sup>, it has not been possible to monetise the average cost of a High Court SCPO application. The anticipated increase in High Court SCPO applications is expected to be low initially due to a lack of new applicants' familiarity with High Court SCPOs, potentially reaching tens of additional yearly High Court SCPO applications later in the appraisal period.<sup>26</sup> This assumption should be tested through further engagement with operational stakeholders.
50. As a Justice Impact Test (JIT) has not yet been completed, and due to a lack of data to estimate costs to the High Court for an additional SCPO, the CJS costs are uncertain and so have not yet been monetised for **Option 2**.

### Costs to applicants

51. Allowing HMRC, the NCA, BTP and the police (in all cases, not just cases which are terrorism-related) to apply for a High Court SCPO themselves rather than the CPS making the application on their behalf may lead to an increased resource burden for HMRC, the NCA, BTP and the police. It has been assumed that this increase in resource burden is similar to the current resource burden on the CPS<sup>27</sup> in relation to applying for SCPOs. However, as there have been so few High Court SCPO applications to date, it is possible that this burden on HMRC, the NCA, BTP and the police might increase if these changes encourage greater use of High Court SCPOs by these agencies. This cost is subject to uncertainty and will be tested through further engagement with operational stakeholders. We anticipate that greater use of non-conviction SCPOs by these agencies will lead to a reduction in serious crime, as SCPOs place restrictions on individuals likely to commit serious offences.
52. **Costs to the Crown Prosecution Service (CPS)**

It has been assumed that **Option 2** will not lead to an increase in resource burden on the CPS - although HMRC, the NCA, BTP and the police will still be obligated to consult with the CPS regarding their application for a High Court SCPO. It has been assumed that this consultation process will be less resource intensive for the CPS than if they were to make the application themselves on the LEA's behalf, as is the case currently. Given the above, as there have been so few High Court SCPO applications to date, it is possible that the burden in relation to the consultation process might increase if these changes encourage greater use of SCPOs by HMRC, the NCA, BTP and the police. This cost is subject to uncertainty and will be tested through further engagement with operational stakeholders.

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<sup>24</sup> For the purposes of this Impact Assessment, "Criminal Justice System (CJS)" refers to the Crown Prosecution Service (CPS), Legal Aid Agency (LAA), HM Courts and Tribunals Service (HMCTS), HM Prison and Probation Service (HMPPS).

<sup>25</sup> Between 2011 and 2021, only two applications have been made to the High Court for an SCPO in the absence of a conviction, of which only one was successful. This figure is based on internal engagement with operational stakeholders and is subject to change.

<sup>26</sup> This figure is based on initial internal engagement with operational stakeholders and is subject to change.

<sup>27</sup> As previously noted, based on initial internal engagement with the Serious Fraud Office (SFO), the SFO has not made an application to the High Court for an SCPO to date.



As above, we anticipate that greater use of non-conviction SCPOs by these agencies will lead to a reduction in serious crime, as SCPOs place restrictions on individuals likely to commit serious offences.

## Benefits

53. There are no monetised benefits for **Option 2**.

## Non-monetised benefits

### Increased accessibility of SCPOs to frontline practitioners

54. Under **Option 2**, the agency that wishes to obtain an SCPO can apply directly to the High Court, rather than referring the case to the CPS to apply on their behalf. This will streamline the process and would allow the frontline agency that is most familiar with the evidence to apply for an SCPO to the High Court. These agencies would be required by law to consult the CPS regarding any applications to the High Court, meaning that the CPS would still be able to provide crucial expert consultation and support. CPS support is beneficial for: establishing that the legal tests for the order's necessity are made out, identifying potential conditions of the order; evaluating the future risk posed by the individual and the resource burden of monitoring the order; and ensuring that the orders are not being used as an alternative to prosecution where prosecution is a viable option.

### Reduction in serious crime

55. **Option 2** will therefore improve the application process for SCPOs and facilitate greater use of non-conviction SCPOs by HMRC, the NCA, BTP and the police. An increased use of SCPOs will reduce serious crime, because persons subject to an SCPO may be subject to prohibitions, restrictions and requirements and so would be less able to commit serious crime. NCA data on ancillary orders indicates that persons subject to SCPOs offend over a wide range of serious and organised crime threat types, with the greatest concentration of offences occurring in drug crime, money laundering and fraud. We consider that an increase in the use of SCPOs will lead to a reduction in offending in these areas. Drug-related convictions feature in over two-thirds of NCA-related SCPOs; money laundering-related convictions feature in just over 15 per cent of NCA-led SCPOs; and fraud and firearm convictions both feature in under 5 per cent of NCA-related SCPOs each<sup>28</sup>.

## Net Present Social Value (NPSV)

The total NPSV for **Option 2** is estimated to lie in a range of **£-0.00 to £-0.06 million**, with a central estimate of **£-0.01 million** over 10 years.

## Option 3

### Set-up costs

#### Familiarisation costs

56. One-off familiarisation costs are expected as changing the legislation to enable the Crown Court to make an SCPO on acquittal, not just on conviction, will mean that lawyers, judges and other legal professionals will have to familiarise themselves with how the new legislation affects the circumstances in which the Crown Court can make an SCPO. This familiarisation spend will support smooth implementation of legislative changes which aim to streamline the existing SCPO application process, by removing the current need for applicants to start again with a new application to the High Court following a conviction by the Crown Court.

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<sup>28</sup> National Crime Agency, Ancillary Orders: <https://nationalcrimeagency.gov.uk/who-we-are/publications/495-nca-ancillary-order-register-1>

We anticipate that there will be a reduction in serious crime as a result, as streamlining the process will encourage greater use of SCPOs, which place restrictions on individuals likely to commit serious offences.

57. Documentation associated with this legislative change, enabling the Crown Court to make an SCPO on acquittal, are estimated to be 98 words. This estimate has been made by reference to section 31 of the Domestic Abuse Act 2021<sup>29</sup> (DAA 2021) and the Protection from Harassment Act 1997<sup>30</sup> (PHA 1997), section 5A which were 93 and 103 words respectively. The length of any legislative provisions and accompanying Explanatory Notes will be dependent on the finalised policy proposals and the drafting of the particular legislative provisions. Low, central and high estimates of familiarisation costs have been based on the number of readers of the document, the time this will take to read, and the salary of the readers. The number of readers for this document have been based on the number of solicitors working in CLA firms and barristers working in full-time CLA practice. In 2018/19 there were 11,760 solicitors working for CLA firms and 2,690 barristers in full-time practice.<sup>31</sup> Around half of CLA firms have business in other legal areas, so a solicitor in a CLA firm may not necessarily be working in CLA and may not read the legislation.<sup>36</sup> Therefore, in the absence of more accurate data, the low, central and high scenarios take a proportion of 25, 50 and 75 percent respectively of the number of solicitors and barristers. The median hourly pay for a full-time solicitor is £23.69, we have taken the 25<sup>th</sup> and 75<sup>th</sup> percentiles as the low and high estimate at £18.15 and £31.30 respectively. For a barrister the median hourly wage is £20.46, with low and high estimates of £14.79 and £27.03 respectively.<sup>32</sup> Using these inputs, the familiarisation costs are estimated to lie in a range of **£0 to £9,900**, with a central estimate of **£3,400**, as is shown in Tables 3 and 4. The familiarisation costs should occur only in year 1 after the implementation of the legislation.

**Table 3, Estimated solicitor familiarisation cost, volume, £, £ million, 2022/23 prices.**

	Number of readers	Hourly cost of solicitor (£s)	Time spent reading (hours)	Total familiarisation cost (£)	Total familiarisation cost (£m)
Low	2,940	18.15	0.00	0	<b>0.00</b>
Central	5,880	23.69	0.02	2,800	<b>0.00</b>
High	8,820	31.30	0.03	8,300	<b>0.01</b>

Source: Home Office internal estimates.

**Table 4, Estimated barrister familiarisation cost, volume, £, £ million, 2022/23 prices.**

	Number of readers	Hourly cost of barrister (£s)	Time spent reading (hours)	Total familiarisation cost (£)	Total familiarisation cost (£ million)
Low	673	14.79	0.00	0	<b>0.00</b>
Central	1,345	20.46	0.02	600	<b>0.00</b>
High	2,018	27.03	0.03	1,600	<b>0.00</b>

Source: Home Office internal estimates.

<sup>29</sup> [Domestic Abuse Act 2021 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2021/11/section/31)

<sup>30</sup> [Protection from Harassment Act 1997 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1997/40/section/5A)

<sup>31</sup> Sir Christopher Bellamy, Independent Review of Criminal Legal Aid, November 2021: [Independent Review of Criminal Legal Aid - Report \(publishing.service.gov.uk\)](https://www.criminallegalaid.gov.uk/publications/independent-review-of-criminal-legal-aid-report)

<sup>32</sup> Office for National Statistics, 2021, Earnings and hours worked, occupation by four-digit SOC: ASHE Table: [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Swyddfa Ystadegau Gwladol \(ons.gov.uk\)](https://www.ons.gov.uk/employment-and-labour/earnings-and-hours/tables/earnings-and-hours-worked-occupation-by-four-digit-soc)

## Total familiarisation cost

58. Total familiarisation costs for **Option 3** are estimated to lie in a range of **zero to £0.01 million**, with a central estimate of **£0.00 million** (2022/23 prices) in year 1 only.

## Non Monetised Costs

### Set-up Costs

59. There are likely to be training costs for the CPS and SFO as they will need to know that they can apply to the Crown Court for an SCPO on acquittal. There are also likely to be training costs for HMCTS operational staff involved in running the Crown Court proceedings dealing with people for serious offences. These costs are likely to be negligible as only a subset of CPS, SFO and HMCTS staff would be involved in using SCPOs. Furthermore, the proposal is for a change to an existing regime, and the relevant CPS, SFO and HMCTS staff are already familiar with using SCPOs. Further data will be gathered through further engagement with operational stakeholders. This training spend will support smooth implementation of legislative changes which aim to streamline the existing SCPO application process, by removing the current need for applicants to start again with a new application to the High Court following a conviction by the Crown Court. We anticipate that there will be a reduction in serious crime as a result, as highlighting acquittal as a scenario in which an application for an SCPO may be appropriate and streamlining the process will encourage greater use of SCPOs, which place restrictions on individuals likely to commit serious offences.

## Ongoing Costs

### CJS Costs

60. This IA uses indicative costs to give an indication of the potential impact on the Criminal Justice System (CJS) of additional applications for SCPOs on acquittal where possible.
61. The estimated average cost to HMCTS for a Crown Court application for an SCPO is £1,486 (2022/23 prices).<sup>33</sup> The experience of the NCA is that SCPO hearings take up to two hours.<sup>34</sup> It is assumed that all applications for SCPOs to the Crown Court on acquittal are successful.
62. Enabling the Crown Court to make an SCPO on acquittal will mean that applications which are currently permitted in the High Court can now take place in the Crown Court, potentially resulting in no overall impact on the CJS. However, we consider it likely this measure will lead to a small increase in SCPOs being made on acquittal because it will have the effect of facilitating greater use of SCPOs following acquittal and making it easier to apply for an SCPO in this.
63. The number of additional SCPOs that will be made on acquittal is expected to be small, as suggested by the low number of High Court applications following the SCA 2007 to date. Stakeholder engagement led to an assumption that between 6 and 14, with a central estimate of 10, additional SCPOs will be applied for each year on acquittal.<sup>35</sup> It is assumed that half of this yearly number will be applied for in the first year as agencies become familiar with the new legislation. These assumptions should be tested through further engagement with operational stakeholders.
64. If these additional SCPOs are subsequently breached, this may lead to an increase in prosecutions for breach of an SCPO. The CJS costs of prosecuting a breach of an SCPO were estimated to be between £11,100 and £41,336 depending on whether all cases go through the magistrates' court or the Crown Court.<sup>36</sup> This includes CPS, Legal Aid, court costs, prison costs and probation costs.

<sup>33</sup> HMCTS management information 2019/20.

<sup>34</sup> Home Office, Impact Assessment: Serious Crime Bill – Improvements to the Serious Crime Prevention Order, May 2014: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/317535/2014-06-03\\_signed\\_IA\\_SCPOs.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/317535/2014-06-03_signed_IA_SCPOs.pdf) - see page 9.

<sup>35</sup> These figures were decided through engagement with the NCA and HMRC.

<sup>36</sup> See Annex A for assumptions and costs used.

For the central and high estimates, it is conservatively assumed that all breach cases are processed through the Crown Court and that all breach prosecutions result in a conviction and a custodial sentence.

65. Current rates where breach of an SCPO is dealt with via prosecution are estimated to be approximately 34 per cent. This is because between 2017 and 2020 there have been 254 known prosecutions for failure to comply with an SCPO, while approximately 748 SCPOs have been successfully imposed during that period.<sup>37</sup>
66. We anticipate that this spend will lead to a reduction in serious crime, as streamlining the process for applying for an SCPO following an acquittal will encourage greater use of SCPOs, which place restrictions on individuals likely to commit serious offences.

**Table 5, Ongoing cost of additional SCPOs to the Crown Court, volume, £, £ million (2022/23 prices).**<sup>38</sup>

Estimate	Additional Yearly SCPOs, Year 2 onwards	Unit Cost of SCPO application (£)	Breach rate of SCPOs (%)	Costs of prosecuting a breach of an SCPO (£)	Total Yearly Cost of additional SCPOs (£)	Total Costs Year 1 (50% of yearly cost) (£)	Total ongoing costs £m (PV)
Low	6	1,486	34	11,100	31,500	15,800	<b>0.26</b>
Central	10	1,486	34	41,300	155,200	77,600	<b>1.26</b>
High	14	1,486	34	41,300	217,300	108,700	<b>1.76</b>

Source: Home Office internal estimates

### Total costs

67. Total costs for **Option 3** are estimated to lie in a range of **£0.26 to £1.76 million (PV)**, with a central estimate of **£1.26 million (PV)** over 10 years.

### Benefits

68. There are no monetised benefits for this option.

### Non-monetised benefits

#### Efficiency savings for SCPO applicants following an acquittal

69. There are estimated to be efficiency savings in the CJS under **Option 3** by streamlining the current process for applying for an SCPO following an acquittal. Currently applicants must restart their SCPO application with a new application to the High Court after an individual has been acquitted by the Crown Court of a criminal offence. Under **Option 3**, the Crown Court would be able to make an SCPO when dealing with someone who has been acquitted, not just when dealing with someone who has been convicted. These efficiency savings would occur in cases where, for example, the Crown Court has found an individual not guilty of an offence, but there is still evidence that they have been involved in serious crime and there are reasonable grounds to believe that an SCPO would protect the public. Given that there have been no applications to the High Court for an SCPO on acquittal under the current legislation, the impact of the proposed new legislation may be negligible. A proxy was considered here to monetise the efficiency saving, but it has not been used due to this knowledge gap and the fact that the saving could vary greatly on a case-by-case basis.

<sup>37</sup> Ministry of Justice, Criminal justice system statistics quarterly: December 2020, May 2021:

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

<sup>38</sup> The breach rate of SCPOs has been calculated based on figures sourced from Ministry of Justice Criminal justice system statistics quarterly: December 2020, covering the period 2017 to 2020: <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

However, if the CPS and the SFO can apply to the Crown Court for an SCPO on acquittal, this may lead to greater efficiency savings with further use, because only one application for an SCPO will be required regardless of the outcome of the Crown Court prosecution (conviction or acquittal). What these efficiency savings are for SCPO applicants will be tested through further engagement with operational stakeholders.

### Reduced serious crime

70. Similarly to **Option 2**, **Option 3** will improve the application process for SCPOs by facilitating greater use of SCPOs following acquittal and making it easier to apply for an SCPO in this scenario. will lead to greater use of SCPOs for individuals considered to pose a risk to the public, we therefore anticipate there will be a reduction in serious crime because persons subject to an SCPO will be subject to prohibitions, restrictions and requirements making them less able to commit serious crime.

### NPSV

71. The NPSV of **Option 3** is estimated to lie in a range of **-£0.26 to -£1.77 million (PV)**, with a central estimate of **-£1.26 million (PV)** over 10 years.

### Option 4

#### Set-up costs

#### Familiarisation costs

72. One-off familiarisation costs are expected as changing the legislation to provide the courts with an express power to impose electronic monitoring (“tagging”) as a condition of an SCPO will mean that lawyers, judges and other legal professionals will have to familiarise themselves with how the new legislation affects the conditions imposed by SCPOs. This familiarisation spend will support smooth implementation of legislative changes which aim to increase the LEA’s ability to closely monitor compliance with the terms of SCPOs, manage the risk posed by the highest risk individuals and to provide robust evidence in the event that the relevant conditions of the SCPO are breached. We anticipate that there will be a reduction in serious crime as a result, as improved monitoring and enforcement of SCPOs will act as a deterrent to breach, and individuals who are prosecuted and convicted for breach will be prevented from carrying out further crime.
73. Documentation associated with this legislative change, providing the court with an express power to impose electronic monitoring as a condition of an SCPO, are estimated to be between 730 and 1,216 words with a central estimate of 973. This estimate has been made by reference to the DAA 2021<sup>39</sup>, sections 37 and 51 which is 973 words, taking a low, high and central estimate at 75, 125 and 100 per cent respectively. The length of any legislative provisions and accompanying Explanatory Notes will be dependent on the finalised policy proposals and the drafting of the particular legislative provisions. Low, central and high estimates of familiarisation costs have been based on the number of words, the number of readers of the document, the time this will take to read and the salary of the readers. The number of readers for this document have been based on the number of solicitors working for CLA firms and barristers working in full-time CLA practice. In 2018/19 there were 11,760 solicitors working for CLA firms and 2,690 barristers in full-time practice. Around half of CLA firms have business in other legal areas, so a solicitor in a CLA firm may not necessarily be working in CLA and may not read the legislation.<sup>40</sup> Therefore, in the absence of more accurate data, the low, central and high scenarios take a proportion of 25, 50 and 75 per cent respectively of the number of solicitors and barristers. The median hourly pay for a full-time solicitor is £23.69, we have taken the 25th and 75th percentiles as the low and high estimate at £18.15 and £31.30 respectively.

<sup>39</sup> [Domestic Abuse Act 2021 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2021/1/contents)

<sup>40</sup> Sir Christopher Bellamy, Independent Review of Criminal Legal Aid, November 2021: [Independent Review of Criminal Legal Aid - Report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/101111/independent-review-of-criminal-legal-aid-report.pdf)

For a barrister the median hourly wage is £20.46, with low and high estimates of £14.79 and £27.03 respectively.<sup>41</sup> Using these inputs, the familiarisation costs are estimated to lie in a range of **£1,300 to £43,000** with a central estimate of **£8,400** (2022/23 prices), as is shown in Tables 6 and 7. The familiarisation costs should occur only in year 1 after the implementation of the legislation.

**Table 6, Estimated solicitor familiarisation cost, volume, £, £ million, 2022/23 prices**

	Number of readers	Hourly cost of solicitor (£s)	Time spent reading (hours)	Total familiarisation cost (£)	Total familiarisation cost (£ million)
Low	2,940	18.15	0.02	1,100	<b>0.00</b>
Central	5,880	23.69	0.05	7,000	<b>0.01</b>
High	8,820	31.30	0.13	35,900	<b>0.04</b>

Source: Home Office internal estimates.

**Table 7, Estimated barrister familiarisation cost, volume, £, £ million, 2022/23 prices**

	Number of readers	Hourly cost of barrister (£s)	Time spent reading (hours)	Total familiarisation cost (£)	Total familiarisation cost (£ million)
Low	673	14.79	0.02	200	<b>0.00</b>
Central	1,345	20.46	0.05	1,400	<b>0.00</b>
High	2,018	27.03	0.13	7,100	<b>0.01</b>

Source: Home Office internal estimates.

### Total familiarisation cost

74. Total familiarisation costs for **Option 4** are estimated to lie in a range of **£0.00 to £0.04 million**, with a central estimate of **£0.01 million** (2022/23 prices) in year 1 only.

### Ongoing costs

#### Electronic monitoring CJS costs

75. **Option 4** proposes to give courts an express power to impose Electronic Monitoring (EM) as a requirement of an SCPO, either to monitor compliance with other relevant terms of the order, or as a standalone location monitoring requirement to monitor the subject's whereabouts. While the current legislation permits the court to impose any restrictions or requirements as conditions of an SCPO as are necessary and proportionate, in the absence of an express legislative power to do so the circumstances in which the court would consider imposing EM as a condition of an SCPO are limited<sup>42</sup>. Therefore, by giving the courts an express power to impose EM, it is expected that **Option 4** will lead to an increase in the use of EM as a condition of an SCPO. If the courts were to grant SCPOs with EM requirements, there will be implementation costs to Government. The current EM service uses Radio Frequency (RF) tags to monitor a curfew, and Global Positioning System (GPS) satellite enabled location monitoring tags to monitor location (that is, exclusion and inclusion zones or movements). The impact of the express power on costs of EM to government will depend on the how much it is used and how the orders are managed and their associated impacts. As a JIT has not yet been completed, the EM service implementation costs to government of imposing EM as a condition of SCPOs have not been monetised.

<sup>41</sup> Office for National Statistics, 2021, Earnings and hours worked, occupation by four-digit SOC: ASHE Table: [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Swyddfa Ystadegau Gwladol \(ons.gov.uk\)](https://ons.gov.uk/earnings-and-hours-worked-occupation-by-four-digit-soc-ashe-table-14-swyddfa-ystadegau-gwladol)

<sup>42</sup> See *R (on the application of Richards) v. Teesside Magistrates' Court and Chief Constable of Cleveland Police* (2015) 179 JP 119: <https://www.bailii.org/ew/cases/EWCA/Civ/2015/7.html>

76. We anticipate that this spend will lead to a reduction in serious crime, as EM will increase the LEA's ability to closely monitor compliance with the terms of SCPOs, manage the risk posed by the highest risk individuals and to provide robust evidence in the event that the relevant conditions of the SCPO are breached. Improved monitoring and enforcement of SCPOs will act as a deterrent to breach, and individuals who are prosecuted and convicted for breach will be prevented from carrying out further crime.
77. If the imposition of EM leads to increased detection of breaches that result in prosecution, there will accordingly be increased ongoing CJS costs. Using Domestic Abuse Protection Orders (DAPOs)<sup>43</sup> as a proxy, the impact assessment for which estimates that 2 per cent of respondents are subject to EM, it was decided that for SCPOs EM was likely to be used more often and a range was used to account for uncertainty. This analysis assumes a range of between 1 and 10 per cent of individuals with an SCPO would be subject to EM. The breach rate of DAPOs is 30 per cent, and this is used as a proxy for where EM is implemented as a condition of an SCPO. It is assumed that the breach rate for SCPOs with EM is 30 per cent. The four-year average for volumes of SCPOs made following a conviction from 2016 to 2019 is 193.<sup>44</sup> This is multiplied by the estimated breach rate (30%) and the estimated percentage of SCPOs imposing EM to calculate the estimated number of additional breaches.

As above, we anticipate that this spend will lead to a reduction in serious crime, as individuals who are prosecuted and convicted for breach will be prevented from carrying out further crime.

**Table 8, CJS costs from additional prosecutions, Volume, £, £ million, 2022/23 prices<sup>45</sup>**

Estimate	Estimated Annual SCPOs	Estimated per cent using EM	Estimated number of additional breaches detected	Costs of prosecuting an SCPO breach (£)	Total Per Year Cost (£)	Total ongoing costs £m (PV)
Low	193	1	0.6	11,100	6,400	<b>0.06</b>
Central	193	5	2.9	41,300	119,700	<b>1.03</b>
High	193	10	6.0	41,300	239,300	<b>2.06</b>

Source: Home Office internal estimates

## Non-monetised costs

### Law enforcement costs

78. EM is likely to incur additional costs to the police, BTP and the NCA to monitor and enforce this requirement and respond to any breaches, depending on which law enforcement agency is responsible for the overall management of the SCPO – which is likely to be the agency leading the investigation which gave rise to the application for the SCPO. For example, there will be a cost to LEAs to respond to breaches of an exclusion zone or a curfew. We anticipate that this spend will lead to a reduction in serious crime, as improved monitoring and enforcement of SCPOs will act as a deterrent to breach, and individuals who are prosecuted and convicted for breach will be prevented from carrying out further crime.

The response can vary greatly, from a warning letter being sent out as a result of a breach to a full police response requiring police presence and a criminal investigation, and data is not available on the type and frequency of different response types. Furthermore, only a subset of law enforcement officers would be involved in monitoring and enforcing SCPOs and responding to breaches.

<sup>43</sup>Home Office, Impact Assessment for Domestic Abuse Act 2021, May 2021:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1007463/DA\\_Act\\_2021\\_Impact\\_Assessment.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1007463/DA_Act_2021_Impact_Assessment.pdf)

<sup>44</sup> HMCTS Management Information on SCPO order volumes 2016-2019.

<sup>45</sup> There is a difference between the estimated number of additional breaches detected multiplied by costs of prosecuting a breach and the total yearly cost, due to rounding of the estimated number of breaches detected.

It has therefore not been possible to quantify the response cost. This will be explored further through engagement with operational stakeholders.

### **Total costs**

79. Total costs of **Option 4** are estimated to lie in a range of **£0.06 to £2.06 million (PV)**, with a central estimate of **£1.03 million (PV)** over 10 years.

### **Benefits**

#### **Monetised benefits**

80. There are no monetised benefits for **Option 4**.

#### **Non-monetised benefits**

##### **Reduced serious crime through increased detection of SCPO breaches and deterrent effect**

81. **Option 4** will improve the ongoing monitoring and enforcement of SCPOs and therefore is expected to lead to a reduction in serious crime. This is because providing the courts with an express legislative power to impose EM as a condition of an SCPO is expected to lead to an increase in the use of EM. EM will help to enhance LEAs' ability to closely monitor and disrupt the activities of persons subject to an SCPO, leading to increased detection of breaches and evidence of these breaches for the purposes of bringing a prosecution. Individuals who are prosecuted and convicted for breach will be prevented from carrying out further crime. We consider that better monitoring and enforcement will act as a deterrent to breach. The increase in the breach rate as a result of introducing an express power to impose EM will be tested at consultation.

#### **NPSV**

82. The NPSV of **Option 4** is estimated to lie in a range of **-£0.06 to -£2.10 million (PV)**, with a central estimate of **£-1.04 million (PV)** over 10 years.

### **Option 5**

#### **Set-up costs**

##### **Familiarisation costs**

83. One-off familiarisation costs are expected as changing the legislation to provide that all SCPOs automatically impose a prescribed set of notification requirements will mean that judges, lawyers and other legal professionals will have to familiarise themselves with how the new legislation affects the notification requirements imposed by SCPOs. This familiarisation spend will support smooth implementation of legislative changes which aim to standardise the personal information which individuals subject to an SCPO are required to notify and which LEAs then record, leading to greater consistency in the way this cohort is managed by LEAs and their ability to effectively share information with other. We anticipate that there will be a reduction in serious crime as a result, as improved monitoring and enforcement of SCPOs and improved case management of persons subject to an SCPO will act as a deterrent to breach. Enhancing LEAs' ability to monitor and disrupt the activities of persons subject to an SCPO will also lead to increased detection of breaches, and individuals prosecuted and convicted for breach will be prevented from carrying out further crime.



Documentation associated with this legislative change, providing that all SCPOs automatically impose a prescribed set of notification requirements, are estimated to be between 1,173 and 1,955 words with a central estimate of 1,564 words. This estimate has been made by reference to sections 9-11 of the Stalking Protection Act 2019<sup>46</sup> (SPA 2019) and sections 41-43 of the DAA 2021<sup>47</sup>, which were 1,443 and 1,685 words respectively. The length of any legislative provisions and accompanying Explanatory Notes will be dependent on the finalised policy proposals and the drafting of the particular legislative provisions. Low, central and high estimates of familiarisation costs have been based on the number of words, the number of readers of the document, the time this will take to read and the salary of the readers. The number of readers for this document have been based on the number of solicitors at CLA firms and barristers working in full-time CLA practice. In 2018/19 there were 11,760 solicitors working for CLA firms and 2,690 barristers in full-time practice.<sup>48</sup> Around half of CLA firms have business in other legal areas, so a solicitor in a CLA firm may not necessarily be working in CLA and may not read the legislation.<sup>49</sup> Therefore, in the absence of more accurate data, the low, central and high scenarios take a proportion of 25, 50 and 75 per cent respectively of the number of solicitors and barristers. The median hourly pay for a full-time solicitor is £23.69, we have taken the 25<sup>th</sup> and 75<sup>th</sup> percentiles as the low and high estimate at £18.15 and £31.30 respectively. For a barrister the median hourly wage is £20.46, with low and high estimates of £14.79 and £27.03 respectively.<sup>50</sup> Using these inputs, the familiarisation costs range from **£1,300 to £66,100** with a central estimate of **£13,300** (2022/23 prices) in year 1 only. This is shown in Tables 9 and 10.

**Table 9, Estimated solicitor familiarisation cost, volume, £, £ million, 2022/23 prices**

	Number of readers	Hourly cost of solicitor (£s)	Time spent reading (hours)	Total familiarisation cost (£)	Total familiarisation cost (£ million)
Low	2,940	18.15	0.02	1,100	<b>0.00</b>
Central	5,880	23.69	0.08	11,100	<b>0.01</b>
High	8,820	31.30	0.20	55,200	<b>0.06</b>

Source: Home Office internal estimates.

**Table 10, Estimated barrister familiarisation cost, volume, £, £ million, 2022/23 prices**

	Number of readers	Hourly cost of barrister (£s)	Time spent reading (hours)	Total familiarisation cost (£)	Total familiarisation cost (£ million)
Low	673	14.79	0.02	200	<b>0.00</b>
Central	1,345	20.46	0.08	2,200	<b>0.00</b>
High	2,018	27.03	0.20	10,900	<b>0.01</b>

Source: Home Office internal estimates.

### Total familiarisation cost

84. Total familiarisation costs for **Option 5** are estimated to lie in a range of **£0.00 to £0.07 million**, with a central estimate of **£0.01 million** (2022/23 prices) in year 1 only.

<sup>46</sup> [Stalking Protection Act 2019 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>47</sup> [Domestic Abuse Act 2021 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>48</sup> Sir Christopher Bellamy, Independent Review of Criminal Legal Aid, November 2021: [Independent Review of Criminal Legal Aid - Report \(publishing.service.gov.uk\)](https://www.criminallegalaid.gov.uk)

<sup>49</sup> Independent Review of Criminal Legal Aid

<sup>50</sup> Office for National Statistics, 2021, Earnings and hours worked, occupation by four-digit SOC: ASHE Table: [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Swyddfa Ystadegau Gwladol \(ons.gov.uk\)](https://ons.gov.uk)

## Ongoing costs

### Law enforcement costs

85. SCPOs can already impose any requirements on the individual which are necessary and proportionate, depending on the circumstances of each individual case, including requirements to notify changes to personal information. Operational views suggests that the majority of SCPOs already impose a range of notification requirements. Under this option, all SCPOs will include a prescribed set of notification requirements, to standardise the personal information which individuals subject to an SCPO are required to notify and which LEAs then record, leading to greater consistency in the way this cohort is managed by LEAs and their ability to effectively share information with other. The impacts of this proposal (including set-up costs) may therefore be minimal if LEAs already have arrangements in place to receive information in relation to notification requirements imposed by existing SCPOs and to input this data onto the relevant systems.
86. The initial notification of information by the respondent on the date their SCPO comes into effect will impact 100 per cent of new SCPOs made after the policy is implemented. It is unlikely that all respondents' personal information will require updating every year, so it has been assumed using DAPOs<sup>51</sup> as a proxy that about 20 per cent of live SCPOs per year will require the police to update their records following changes to respondents' personal information. We know that there are about 1,000 live SCPOs in England and Wales, so this gives a figure of 200 additional notification requirements per year. A range of 150 to 250 has been used to reflect uncertainty. Using DAPOs as a proxy, each notification requirement is estimated to take 10 minutes of police time to receive notification of the change and to record details into the relevant database. The average cost of a police officer is £40 per hour.<sup>52</sup> This leads to a per year ongoing cost of between **£1,000 and £1,700** (2022/23 prices) with a central estimate of **£1,300** (2022/23 prices). For the purposes of this IA it is assumed that the police will record these changes, though this work would likely be undertaken by the agency that applied for the SCPO, or (if different) the law enforcement agency leading the investigation of the case which gave rise to the application for the SCPO (which may not always be the police). We anticipate that this spend will lead to a reduction in serious crime, as improved monitoring and enforcement of SCPOs and improved case management of persons subject to an SCPO will act as a deterrent to breach. Enhancing LEA's ability to monitor and disrupt the activities of persons subject to an SCPO will also lead to increased detection of breaches, and individuals prosecuted and convicted for breach will be prevented from carrying out further crime.

**Table 11, Costs of LE time, volume, £, £ million, 2022/23**

Estimate	Estimated SCPOs per year	Estimated number of additional notification requirements	Estimated Police time required per update (minutes)	Cost Per Police Officer per hour (£)	Total Yearly Cost (£)	Total Costs £ (PV)	Total ongoing costs £m (PV)
Low	193	150	10	40	1000	8,600	<b>0.01</b>
Central	193	200	10	40	1300	11,500	<b>0.01</b>
High	193	250	10	40	1700	14,300	<b>0.01</b>

Source: Home Office internal estimates

<sup>51</sup>Home Office, Impact Assessment for Domestic Abuse Act 2021, May 2021:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1007463/DA\\_Act\\_2021\\_Impact\\_Assessment.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1007463/DA_Act_2021_Impact_Assessment.pdf)

<sup>52</sup> Calculated using Home Office internal estimates on police hourly costs for rank of Sergeant and below. Includes salary, expenses, regional allowance, training and employer contributions to pension and national insurance. The estimates were calculated using the Annualised Survey of Hours Earnings (ASHE), Chartered Institute of Public Finance and Accounting (CIPFA) Police Actuals and The National Police Chiefs Council (NPCC) Mutual Aid Rates. Estimates use the latest figures available for the various inputs and are updated to 2021/22 prices.

## Total costs

87. Total costs are estimated to lie in a range of **£0.01 to £0.01 million (PV)**, with a central estimate of **£0.01 million (PV)** over 10 years.

## Monetised benefits

88. There are no monetised benefits for this option.

## Non-monetised benefits

### Consistency of management approach across LEAs leading to reduction in serious crime

89. **Option 5** will improve the ongoing monitoring and enforcement of SCPOs by LEAs by standardising the personal information which individuals subject to an SCPO are required to notify and which LEAs then record, leading to greater consistency in the way this cohort is managed by LEAs and their ability to effectively share information with each other. We consider that this will increase the effectiveness of SCPOs and lead to a reduction in serious crime, as enhancing LEA's ability to monitor and disrupt the activities of persons subject to an SCPO will lead to increased detection of breaches. Individuals prosecuted and convicted for breach will be prevented from carrying out further crime. Better monitoring and enforcement and improved case management of persons subject to an SCPO by LEAs will also act as a deterrent to breach.

## NPSV

90. The NPSV of **Option 5** is estimated to lie in a range of **-£0.01 to -£0.08 million (PV)**, with a central estimate of **-£0.02 million (PV)** over 10 years.

## Option 6

91. **Option 6** combines all the measures included in the other options, and will improve the application process for SCPOs as well as improving the ongoing monitoring and enforcement of SCPOs. This should lead to a combination of the costs and associated crime reduction benefits of the Options 2 – 5 as set out above. The monetised costs have been summarised in the table below, and reflect the combination of additional SCPOs made and additional prosecutions for breach. Costs are in 2022/23 prices.

**Table 12, Total costs for Option 6, £ million (PV), 2022/23**

<b>Cost</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
Total Set-up Costs	0.02	0.11	0.14
Total Ongoing Costs	0.30	2.14	3.60
Total Costs	0.32	2.25	3.74

Source: Home Office internal estimates

## Non-monetised benefits

92. **Option 6** will lead to a combination of the crime reduction benefits of the Options 2 – 5 as set out above. The main desired benefit of Options 2 – 5, both individually and as a combined package, is to reduce serious crime. This desired benefit could come from the increased volume and enhanced management of individuals subject to SCPOs, which are targeted at individuals at high risk of further involvement in serious crime.

93. There are no evaluations that look at the effectiveness of SCPOs, or evaluations of similar orders. . It is therefore not possible to estimate the number of offences that may be prevented by the proposed interventions, and no analysis of crime reduction benefits has been conducted.
94. However, a breakeven analysis has been conducted: NCA data on ancillary orders indicates that the greatest concentration of serious offences leading to post-conviction SCPOs occurs in drug crime, firearm offences, money laundering and fraud. Unit costs for drugs, firearms and money laundering offences are not available, therefore for the purposes of the breakeven analysis we have used the unit cost of violence with injury offences, in addition to the unit cost of fraud offences, as the best available alternative. The cost of violence with injury is £16,180 in 2022/23 prices and the cost of fraud is £1,490<sup>53</sup>. It would require **70 violence with injury offences and 755 fraud offences** to be prevented over the ten-year period for this policy to breakeven.

## NPSV

95. There are no anticipated monetised costs or benefits to businesses. As there are no monetised benefits, the NPSV captures the PV costs of the different options.
96. The **total NPSV of Option 6** is estimated to lie in a range of **-£0.32 to -£3.74 million (PV)**, with a central estimate of **£-2.25 million (PV)** over 10 years.

**Table 13, Net present costs for Options 2 to 6, £ million PV, 2022/23**

Option	Low	Central	High
2	0.00	0.01	0.06
3	0.3	1.3	1.9
4	0.06	1.04	2.10
5	0.01	0.08	0.02
6	0.32	2.25	3.74

Source: Home Office internal estimates, 2022.

## Impact on small and micro-businesses

97. We do not consider that these proposals to amend the existing legislation for SCPOs will have a significant impact on small and micro-businesses. We will consider any information on potential impacts on small and micro businesses gathered through the public consultation.

## Value for money (VfM)

98. For a policy to be considered VfM, it must achieve the strategic and policy objectives.
99. Both **Option 2** and **Option 3** meet the first policy objective of improving the application process for SCPOs. **Option 2** expands the list of organisations who can apply to the High Court for an SCPO which means that they are able to obtain an SCPO more easily, while **Option 3** allows the Crown Court to make an SCPO on acquittal, meaning an SCPO can be obtained more quickly and efficiently in these circumstances as the applicant will no longer be required to start again with a new application to the High Court. **Options 2** and **3** meet the overall strategic objective of a reduction in serious crime through increased use of SCPOs, by placing restrictions on those likely to commit serious offences.

<sup>53</sup> Home Office Cost of Crime publication updated to 2021/22 prices:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/732110/the-economic-and-social-costs-of-crime-horr99.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732110/the-economic-and-social-costs-of-crime-horr99.pdf)

100. **Option 4** and **Option 5** achieve the second policy objective of improving the ongoing monitoring and enforcement of SCPOs. **Option 4** provides the courts with express power to impose electronic monitoring as a condition of SCPOs – either to monitor compliance with other relevant terms of the order, or as a standalone location monitoring requirement to monitor the subject’s whereabouts – which is expected to increase the number of SCPOs which impose EM. This will enhance LEAs’ability to closely monitor and disrupt the activities of individuals subject to an SCPO and also provide robust evidence for the purpose of bringing a prosecution in the event that the relevant conditions of the SCPO are breached. **Option 5** requires that all SCPOs automatically impose a prescribed set of notification requirements, meaning that all individuals subject to an SCPO are required to notify LEAs upon changes to the same personal information. This allows law enforcement to monitor individuals subject to an SCPO more consistently, given that the information which they record will be standardised for all SCPOs. **Options 4** and **5** will meet the overall strategic objective of a reduction in serious crime through improved monitoring and enforcement of SCPOs, including increased detection of breaches and more prosecutions being brought forward for breach. Individuals prosecuted and convicted for breach will be prevented from carrying out further crime. Better monitoring and enforcement may also act as a deterrent to breach.
101. **Option 6** is likely to represent the best VfM as it introduces all of, or a combination of, the measures from **Options 2 to 5**. Therefore, **Option 6** meets all strategic and policy objectives.
102. All costs in this IA accrue to the public sector, and benefits are expected to accrue to both the public sector and individuals, through improved public safety and reduction in serious crime. At this stage some costs and benefits are not yet monetised, so it is not possible to accurately determine which options offer the highest benefit-cost ratio and therefore better VfM. The consultation and further engagement with operational stakeholders will be used to better understand which options present value for money, and further work will be completed following the consultation to attempt to monetise benefits where possible.

## F. Proportionality

103. This IA is for a policy that is at consultation stage, with government consulting on many of the variables that would inform the final detail of proposed policies. The estimates used here are purely indicative and any Final Stage IA would be informed by the findings received from the consultation and through further engagement with operational stakeholders.
104. As this is a Consultation Stage IA, impacts have been monetised as far as possible to inform consultees on the potential scale of impacts associated with the proposed changes, and the impacts estimated are indicative only.

## G. Risks

105. There is a risk that the increase in volumes of SCPOs are larger than anticipated, both in applications to the High Court under **Option 2** and to the Crown Court under **Option 3**. This could result in increased costs to the CJS.
106. The number of additional SCPOs that will be made on acquittal was estimated by experts from the NCA and HMRC. However, there is a risk that this number may be higher, thereby leading to increased costs to the CJS.
107. There is a risk that LEAs may want to impose EM on individuals currently under SCPOs, not just for new SCPOs made after this measure came into effect, which would increase the cost to the CJS.
108. There is a risk that a larger proportion of SCPOs will impose EM than has been anticipated, which could lead to increased costs to the CJS.

109. There is a risk that the implementation of all new SCPOs imposing a prescribed set of notification requirements cannot be absorbed within existing workloads if law enforcement agencies do not have existing arrangements already in place for monitoring and enforcing the SCPOs which they already own. This could result in increased costs to law enforcement.
110. There are additional risks associated with the costs to prosecute breach of an SCPO which are outlined at Annex A (see Section K below).

## **H. Wider impacts**

111. There are no anticipated wider impacts as a result of this policy.

## **I. Trade impact**

112. There is not expected to be any impact on trade or investment as a result of this policy.

## **J. Monitoring and evaluation (PIR if necessary)**

113. As the proposals are at consultation stage, no monitoring and evaluation plans have been established as yet. However, the following will be considered during the consultation period:
- How will the impact of the new arrangements be monitored?
  - What are the main external factors that will have an impact on the success of the intervention?
  - Have the original objectives been met, or should the intervention be amended?
  - What are the current monitoring and evaluation provisions in place for the current system, and how can they maintain the appropriate flexibility?
  - What additional data may need to be collected to assess whether the policy has been successful?
  - What circumstances / changes in the market or sector would require the policy to be reviewed or change the preferred option?

## K. Annexes.

### Annex A – Risks and assumptions for calculating the cost of prosecuting breach of an SCPO

Assumptions	Risks
<p><b>CPS Costs</b></p> <p>The costing assumes charging is required on an urgent basis for a defendant held in custody.</p> <p>Magistrates’ court costs include internal CPS advocacy costs.</p> <p>Crown Court costs assume all cases are briefed out to the external bar. The cost of this is based on Graduated Fee Scheme E Manual<sup>54</sup>.</p> <p>A trial daily refresher fee has been included in the Crown Court trial cost, based on the assumption a breach of SCPO case takes place over two days.</p> <p>The unit cost to the CPS for prosecuting a breach of an SCPO case is estimated to cost approximately £247 for cases in the magistrates’ court and £1,473 for cases in the Crown Court.</p> <p>Source: CPS, with 2021 Crown Court plea types for Public Order Offences taken from Criminal Court Statistics Quarterly, January to March 2021.</p> <p>It is assumed that the plea types in the magistrates’ court are the same as for the Crown Court.</p> <p>The data and assumptions used to produce the unit costs are specific to the characteristics of a breach of SCPO case and <b>should not be used for costing other offences/processes.</b></p>	<p>There is a risk that the breakdown of plea types may be different in the magistrates’ court than the Crown Court.</p> <p>While Public Order Offences includes breaches of an SCPO, there is a risk that breaches of SCPOs are different to other offences of this offence type.</p> <p>All unit costs are subject to change, particularly those encompassing External Advocacy Costs (cases through the Crown Court) included as these rates are subject to external bar fee reviews.</p>
<p><b>HMCTS Costs</b></p> <p>HMCTS costs were provided by MoJ and inflated to 2022/23 prices.</p> <p>The four-year average hearing time for Public Order Offences in the Crown Court is approximately four hours. It is assumed this is the same for the magistrates’ court.</p> <p>Source: Criminal Court Statistics Quarterly, January to March 2021.</p>	<p>As these costs are based on averages there is a risk these costs may be larger or smaller.</p> <p>While Public Order Offences includes breaches of an SCPO there is a risk that breaches of SCPOs are different to other offences of this offence type.</p>

<sup>54</sup> <https://www.cps.gov.uk/publication/graduated-fee-scheme-e-manual-guidance>

<b>Assumptions</b>	<b>Risks</b>
<p><b>Legal Aid</b></p> <p>Legal Aid costs for 2019/20 were provided by MoJ, inflated to 2022/23 prices. It is assumed that there is 100% eligibility in the Crown Court and 50% eligibility in magistrates' court.</p>	<p>As these costs are based on averages there is a risk these costs may be larger or smaller. Assuming 100% eligibility for Legal Aid in the Crown court carries several risks. Firstly, an individual may refuse Legal Aid. Secondly, an individual may contribute to Legal Aid costs. Lastly, the size of this contribution can vary. This could mean that the costings provided are a slight overestimate.</p>
<p><b>Average Custodial Sentence Length (ACSL)</b></p> <p>For both courts it is assumed that the ACSL given is half of the maximum penalty available – therefore assume offenders are given three months for cases tried in the magistrates' court and 2.5 years for cases tried in the Crown Court.</p> <p>A prosecution to conviction ratio of 87% is used. Source: Criminal Justice Statistics quarterly: December 2019.</p> <p>It is assumed that 50% of those convicted are given a custodial sentence.</p>	<p>There is a risk that the ACSL given will be longer or shorter.</p>
<p><b>Prison Costs</b></p> <p>It is assumed that only 50% of the given ACSL is served in custody. The average cost of a prisoner per year is £ £48,409 in 2020/21 inflated to £49,858 in 2022/23 prices. Source: 'Cost per prison place and cost per prisoner 2020 to 2021 summary'.</p> <p>Average cost per prisoner across female/male prisons and all categories.</p>	<p>As these costs are based on averages there is a risk these costs may be larger or smaller. The cost of per prisoner is also dependent on the existing prison population, as if there is spare capacity in terms of prison places then the marginal cost of accommodating more offenders will be low due to existing large fixed costs and low variable costs. Conversely, if the current prison population is running at or over capacity then marginal costs may be significantly higher as contingency measures will have to be found.</p>
<p><b>Probation</b></p> <p>Of those convicted it is assumed that 50% serve a custodial sentence and that 50% of a custodial sentence over one year is spent on a post release licence.</p> <p>The 50% that do not receive a custodial sentence are assumed to receive an Suspended Sentence Order or Community Order.</p> <p>The cost of an over 12 months post release licence and cost of a community order and suspended sentence order were provided by MoJ, inflated to 2022/23 prices.</p>	<p>As these costs are based on averages there is a risk these costs may be larger or smaller.</p>



**Impact Assessment Checklist**

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p><b>Statutory Equalities Duties</b></p> <p>The public sector equality duty requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in the course of developing policies and delivering services. <a href="#">[Equality Duty Toolkit]</a></p> <p>In evaluating the impact of the introduction of the proposals set out in the consultation, due consideration has been given to assessing any discriminatory impacts on groups with protected characteristics including age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.</p> <p>These proposals will directly discriminate on the basis of the protected characteristic of age, as SCPOs can only be imposed on individuals aged 18 or over (as per section 6 of the SCA 2007). This can be objectively justified because there are other, more proportionate criminal justice responses available to manage children involved in serious crime which are appropriate to their age and associated vulnerability.</p> <p>Other than with regards to the protected characteristic of age, the proposed amendments to the legislation for SCPOs would apply equally to all individuals irrespective of protected characteristics, and we do not consider that the proposals will directly discriminate on the basis of any other protected characteristics.</p> <p>Using the best available data on those found to have been involved in serious / serious and organised crime, we consider that there is a possibility that men, individuals falling within the age range of 30- to 39-years-old, and black people may be disproportionately impacted by these proposals, as people with those protected characteristics are over-represented among –the indicative target population identified for the purposes of this Impact Assessment<sup>55</sup>.</p> <p>Any differential impact of the proposed amendments to the legislation for SCPOs in relation to these protected characteristics is considered to be objectively justified as a proportionate means of achieving the legitimate aims of reducing serious crime.</p> <p>Further evidence of the impacts of these proposals on those with protected characteristics will be sought in the public consultation and we will consider any appropriate forms of mitigation as necessary.</p> <p>The SRO has agreed these summary findings from the <b>Equality Impact Assessment</b>.</p>	<p><b>Yes</b></p>

<sup>55</sup> For the purposes of our analysis, this population consists of: individuals convicted of any of the “serious offences” listed in Schedule 1 of the Serious Crime Act 2007; individuals convicted of the offence of participating in the activities of an organised crime group under section 45 of the Serious Crime Act 2015; and individuals sentenced for more than 7 years’ imprisonment.