

Title: Domestic Abuse Bill 2020 IA No: HO0373 RPC Reference No: Lead department or agency: The Home Office, Ministry of Justice Other departments or agencies: Ministry for Housing, Communities and Local Government	Impact Assessment (IA)			
	Date: July 2020			
	Stage: ENACTMENT			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: DABill.ImpactAssessment@homeoffice.gov.uk				
Summary: Intervention and Options			RPC Opinion: RPC Opinion Status	

Cost of Preferred (or more likely) Option (in 2019/20 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£944m	£0m	£0m	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?
Despite recent progress in tackling domestic abuse (DA) its prevalence remains high, with over 1 in 10 police recorded crimes related to DA. Between March 2016 and March 2018, 366 police recorded homicides were DA-related. Government intervention is required to legislate to facilitate a wider culture change around DA, provide protection to victims and their children, support and strengthen the Justice System response to DA.

What are the policy objectives and the intended effects?
There are five policy objectives: 1) raise awareness and challenge assumptions, 2) support victims and their children, 3) create a Justice System that better serves victims, 4) reduce offending and re-offending and 5) drive consistency and better performance in the response to DA. The intended effects are to: permanently change the culture and response to DA, improve support for victims and their children, decrease the incidence of DA and reduce the emotional and economic costs to victims, their families and the public and private sectors.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
Option 1: Do Nothing. Make no changes to existing legislation.
Option 2: Implement the measures in the Domestic Abuse Bill by enacting primary legislation, which are described in detail in the Options section (D) in the Evidence Base.
Option 2 is the Government's preferred option as it best meets the policy objectives. While the Government believes that the combined effect of all the measures is likely to be greater than the sum of the effect of each individual measure, this IA will consider the impact of each measure separately. Non-regulatory options were considered but could not deliver the policy objectives.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 04/2022

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

Victoria Atkin

Signed by the responsible Minister:

..... Date: July 2020

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..... Date: July 2020

Summary: Analysis & Evidence

Policy Option 2

Description: Domestic Abuse Bill 2020

FULL ECONOMIC ASSESSMENT

Price Base Year 19/20	PV Base Year 19/20	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	-884	High:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		137	884
High		155	1,005
Best Estimate	N/A	146	944

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

The main costs (over 10 years at present value) from the Bill across the UK are estimated to be in a range of £884 to £1,005 million. The total annual average cost over 10 years is £137 to £155 million (in 2019/20 prices), apportioned as follows: Home Office £4.5 to £15.1 million, MoJ £32.2 to £39.8 million, AGO £1.5 to £1.7 million, MCHLG £98 million and Scotland £0.7 million.

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

There are several non-monetised costs associated with the measures in the Bill. These include Electronic Monitoring (EM) costs to HM Prison and Probation Service and police costs for enforcement of EM requirements.

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

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

It has not been possible to identify and monetise the majority of benefits associated with the measures in the Bill.

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

The main non-monetised benefits of the measure in the Bill are intended to provide greater support to the victims of DA and their children, recognise the seriousness of DA, raise awareness of the range of forms it can take, support victims through the justice system and prevent offending and reoffending. Breakeven analysis estimated the cost of these policies to be offset if the total number of DA victims is reduced by 0.2 per cent.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Estimates of the volume of Domestic Abuse Protection Orders (DAPOs) are uncertain due to a lack of evidence. For the purposes of this IA, it is assumed that the volume of orders granted will increase by between 5 and 10 per cent if the DAPO achieves the aim of becoming the main protective order in domestic abuse cases. An important risk is that the estimates rely on the new DAPO framework being used in response to all DA cases for which this intervention has been considered appropriate.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:				Score for Business Impact Target (qualifying provisions only) £m:	
Costs:	0.0	Benefits:	0.0	Net:	0.0
					0.0

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

1. The current non-statutory cross-Government definition of domestic abuse is: any incident or pattern of incidents of controlling¹, coercive², threatening behaviour, violence or abuse between those aged 16 years or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to: psychological, physical, sexual, financial and emotional abuse.
2. This Government has taken strong, positive steps towards tackling domestic abuse. Since 2014, it has rolled out Domestic Violence Protection Orders (DVPOs) and the Domestic Violence Disclosure Scheme (DVDS, also known as “Clare’s Law”). In 2015, it introduced a specific offence of domestic abuse which criminalises patterns of controlling or coercive behaviour. Additionally, it has placed domestic homicide reviews on a statutory basis and driven improvements to the police response by overseeing delivery of recommendations from inspections by HM Inspectorate of Constabulary and Fire and Rescue Services. In 2016, the Government published the Cross-Government Violence against Women and Girls (VAWG) Strategy³ which details the ongoing commitment to tackling this issue and making domestic abuse ‘everyone’s business’. In March 2019, this VAWG strategy publication was refreshed.
3. Despite this progress, there is still much more to do: there are still approximately 2.4 million victims (aged 16 to 74 years) of domestic abuse every year according to the Crime in England and Wales Survey and in too many cases domestic abuse related offences are still not understood, recognised and responded to with appropriate seriousness. Referrals from the police to the CPS for domestic abuse cases have fallen by 21 per cent between 2015/16 and 2018/19 (from 124,292 to 98,470).⁴ The latest prosecution statistics published by the Crown Prosecution Service (CPS) show there were 100,930 prosecutions in 2015/16 to 78,624 in 2018/19. Convictions have also been falling from 75,235 convictions for domestic abuse-related offences in 2015/16, down from 60,160 in 2018/19. These statistics suggest that further intervention is required in this area in order to improve criminal justice outcomes.
4. On 17 February 2017, the Government announced a new programme of work leading towards a Domestic Abuse Bill to transform how domestic abuse is tackled. That commitment to legislation was re-iterated in the Queen’s Speech in May 2017, and again in December 2019.⁵

A.2 Groups Affected

5. The following groups will be most affected by this policy:
 - Victims.
 - Defendants / Alleged Perpetrators / Perpetrators.
 - Witnesses.

¹ Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

² Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

³ <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020>

⁴ <https://www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2019.pdf>

⁵ <https://www.gov.uk/government/news/22-million-for-projects-to-support-domestic-abuse-survivors>

- The Judiciary.
- HM Courts and Tribunals Service (HMCTS).
- HM Prison and Probation Service (HMPPS).
- The Crown Prosecution Service (CPS).
- Children and Family Court Advisory and Support Service (Cafcass) and Cafcass Cymru.
- The National Probation Service (NPS).
- Community Rehabilitation Companies (CRCs).⁶
- Police forces in England and Wales.
- The Legal Aid Agency (LAA).
- Equivalent criminal justice agencies in Scotland and Northern Ireland.
- Ministry of Justice (MoJ).
- Home Office.
- Ministry of Housing, Communities and Local Government (MHCLG).
- Victim support agencies and community/representative groups for victims.
- Police and Crime Commissioners (PCC).
- Local authorities in England.
- Providers of programmes for perpetrators to raise their awareness of domestic abuse, change their behaviour and address specific needs related to their abusive behaviour.
- Legal service providers.

A.3 Consultation

Public Consultation

6. The joint Home Office and Ministry of Justice consultation '*Transforming the Response to Domestic Abuse*' was launched on 8 March 2018 and ran for 12 weeks until 31 May.⁷ Over the consultation period, officials held 25 stakeholder events in six regions engaging more than 1,000 people including victims, charities, local authorities and professionals. The consultation received a total of 3,149 responses. The Government published a response to the consultation in January 2019 alongside the draft Domestic Abuse Bill.⁸ The majority of those who responded to the consultation agreed with the proposals within it. The response also provided important insight into the lived experience of domestic abuse as useful examples of what can be effective in tackling it.
7. The draft Domestic Abuse Bill was subjected to pre-legislative scrutiny by a Joint Committee of both Houses of Parliament which reported in June 2019⁹. Following this, the Domestic Abuse Bill was introduced to Parliament on 16 July 2019 but fell with the dissolution of Parliament on 6 November 2019.
8. The Ministry for Housing, Communities and Local Government consultation '*Domestic Abuse Services: Future Delivery of Support for Victims and their Children in Accommodation-Based*

⁶ Subject to the outcome of future restructuring, CRC impacts will then accrue to NPS.

⁷ <https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/>

⁸ Home Office (2019) *Transforming the Response to Domestic Abuse: Consultation Response*. London: Home Office

⁹ <https://publications.parliament.uk/pa/jt201719/jtselect/jtddab/2075/2075.pdf>

Domestic Abuse Services was launched on 13 May 2019 and ran until 2 August 2019.¹⁰ The consultation received over 400 responses which have been considered by the Government. The Government response was published on 15 October 2019.

B. Rationale for intervention.

9. The conventional economic approach to Government intervention is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (for example, monopolies overcharging consumers) or there are strong enough failures in existing Government interventions (for example, waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and re-distributional reasons (for example, to reallocate goods and services to the needier groups in society).
10. The rationale for intervention in this case relates to equity. The interventions outlined in this Impact Assessment (IA) are intended to provide greater support to the victims of domestic abuse and their children, recognise the seriousness of domestic abuse, raise awareness of the range of forms it can take, support victims through the justice system and prevent offending and reoffending.

C. Policy objective

11. The overall policy objective is that the legislation should underpin a lasting culture change in terms of the understanding of and response to domestic abuse, leading to:
 - a) Increased awareness and understanding of domestic abuse across statutory agencies and in public attitudes.
 - b) Improved support for all victims of domestic abuse and the children who are affected by it.
 - c) Improved access to protection and redress through the justice system.
 - d) A reduction in prevalence, offending and reoffending.
 - e) Improved consistency and performance in the response to domestic abuse.
12. The intention is that, as a result of these improvements, support for existing victims improves and the prevalence of domestic abuse falls, leading to a reduction in both the emotional and social costs to victims and their families and the financial costs to the public sector and private sector.
13. To address these objectives, the following legislative measures are proposed through the Bill:
 - a) **Introduce a statutory definition of domestic abuse:** This will provide a clear definition of domestic abuse, which recognises that domestic abuse can extend beyond violence to other forms of abuse, to link to other measures in the Bill. The definition largely reflects the current non-statutory cross-Government definition of domestic abuse of: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between persons aged 16 years or over who are or have been intimate partners or family

¹⁰ <https://www.gov.uk/government/consultations/support-for-victims-of-domestic-abuse-in-safe-accommodation>

members regardless of gender or sexuality. The abuse can encompass, but is not limited to: psychological, physical, sexual, financial and emotional abuse. However, the new statutory definition will also include 'economic' abuse¹¹ as a form of abuse (rather than 'financial' abuse). This definition also recognises that children can be impacted by domestic abuse through seeing, hearing or experiencing the effect of it.

- b) **Establish in law the office of Domestic Abuse Commissioner:** The Bill will establish a national statutory office holder to stand up for victims and survivors of domestic abuse, raise public awareness, monitor the response of statutory agencies and local authorities and hold the Government and public bodies to account in tackling domestic abuse.
- c) **Create a domestic abuse protection notice and domestic abuse protection order:** This will enable the police to give the alleged perpetrator a notice prohibiting the person from being abusive towards the victim. In addition, the courts will be able to make an order which allows them to better protect victims from the harm a perpetrator poses. The notice will provide immediate, short term protection to the victim and give them "breathing space" from their alleged perpetrator, pending a hearing within 48 hours at which the police's application for an order will be considered. The order, which could be made following the issue of a notice by the police, on application to the court by the victim, a specified third party, or any other person with the court's permission, or by the court of its own volition, would offer longer term, flexible protection to the victim by imposing appropriate conditions (which can include both prohibitions and positive requirements) that the perpetrator must comply with. Breach of an order without reasonable excuse will be a criminal offence, the penalty for which will be up to 5 years imprisonment, or a fine, or both.
- d) **Extend extraterritorial jurisdiction over specified offences as required by the Istanbul Convention:** Demonstrate our commitment to ratifying the Istanbul Convention¹² by extending our extraterritorial jurisdiction over specified offences (particularly, but not exclusively) involving violence against women and girls (VAWG).
- e) **Place the guidance underpinning the Domestic Violence Disclosure Scheme (DVDS, also known as "Clare's Law") on a statutory footing:** This will improve understanding and awareness of the DVDS amongst the police in order to increase usage and drive consistency across forces to ensure that potential victims are provided with appropriate information about the risk their partner or ex-partner may pose.
- f) **Prohibit cross-examination in person in specified circumstances in family and civil proceedings:** This will make provision for the prohibition of cross-examination in person in specified circumstances in family and civil proceedings in England and Wales, and give courts the power to appoint advocates funded from central funds to undertake cross-examination in specified circumstances.
- g) **Mandatory polygraph examinations of high risk domestic abuse offenders on licence:** This aims to generate a higher quality and quantity of offender licence monitoring information, to provide additional risk-related information to agencies such as the police and social services, thereby improving risk management of on licence offenders. This will involve an initial pilot scheme.
- h) **Create a legislative assumption that adult domestic abuse victims are to be treated as eligible for special measures in the criminal court on the grounds of fear and distress (if the victim wants such assistance):** This will reduce the stresses on the

¹¹ Economic abuse refers to limiting access to financial resources, as financial abuse also did, but is then extended to also include denied access to basic resources such as food, clothing and transportation and/or being forced to take out loans or entering into other financial contracts by the perpetrator.

¹² The Istanbul Convention aims to create a legal framework at pan-European level to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence <https://www.coe.int/en/web/istanbul-convention/about-the-convention>. The UK signed the Convention in June 2012 and the Government has committed to ratifying it.

victims of a domestic abuse related offence associated with giving evidence by providing automatic eligibility to be considered for a range of special measures.

- i) **Protect security of tenure for domestic abuse victims:** This will ensure that where a local authority grants a new tenancy to a victim of domestic abuse who already has or had a lifetime tenancy, this must be a further lifetime tenancy if it is granted in connection with that abuse.
- j) **Introduce a statutory duty on tier one¹³ local authorities in England to support victims and their children in domestic abuse safe accommodation and a duty on tier two authorities to co-operate with tier one authorities in the fulfilment of their duties.** The duty will be placed on local authorities who will be required to commission these services in accordance with local need. The duty will promote a consistent approach to delivering support in safe accommodation, and increase accountability for this provision, ensuring that victims and their children get the support they need in safe accommodation
- k) **Providing for automatic eligibility for special measures in the civil and family courts.** To provide for a presumption of eligibility for special measures for vulnerable witness, including victims of domestic abuse, in civil and family proceedings. This will enable all vulnerable witnesses and applicants/respondents give their best evidence without fear or distress about testifying in the civil courts.
- l) **Amend the Housing Act 1996 to give those who are homeless as a result of fleeing domestic abuse priority need for accommodation secured by the local authority.** This will help to ensure that all eligible homeless households who are fleeing domestic abuse will be owed homelessness duties by the local authority and, as a result ensure that victims do not remain with their abuser for fear of not having a roof over their head.
- m) **Provide clarification that consent to serious harm for sexual gratification is not a defence in law.** By broadly codifying the principle set out in current caselaw, specifically that in the case of R v. Brown, the aim is to make clear that a person is unable to consent to serious harm nor, by extension, harm that results in their death. This will apply to all cases where consent to rough sex is claimed and not just those cases where rough sex might be raised within a domestic abuse context.

D. Description of options considered.

- 14. **Option 1:** is not to implement measures (a) to (m). This is the ‘do nothing’ option. While there are no costs associated with this option, it does not meet the Government’s objectives.
- 15. **Option 2:** To meet the policy objectives set out in paragraphs 11 and 12, the Government proposes to implement the legislative measures under Option 2 as set out in paragraph 13. **This is the Government’s preferred option.** Option 2 includes the legislative measures set out which collectively form a cohesive approach across the justice system and local government to address issues relating to domestic abuse. The Government’s approach could be undermined if certain measures were excluded from the Bill. Therefore, although this IA estimates the potential impact of each measure separately, all measures are presented collectively in the summary of total costs in Table 7, at the end of the appraisal section (E).

¹³ “Tier one” refers to county councils, metropolitan and unitary district councils and the Greater London Authority, “tier two” refers to non-unitary districts councils and London Boroughs.

(a) Introduce a statutory definition of domestic abuse

16. To meet the policy objectives, two options have been considered:

- a) **Option 1: Do Nothing.** The current, non-statutory, cross-Government definition of domestic abuse will remain. However this will mean that the opportunity to increase awareness of the complexity of domestic abuse and to challenge the myths and stereotypes surrounding domestic abuse will be missed and other measures in the Bill will not be linked to a statutory definition.
- b) **Option 2: Introduce a statutory definition of domestic abuse.** The statutory definition will provide a single definition of domestic abuse. This is not intended to replace other references to domestic violence or abuse in existing legislation, but it is expected to be generally adopted, including by public authorities and frontline practitioners.

17. **Option 2 is the Government's preferred option** because it will help ensure domestic abuse is properly understood to drive a much-needed wider culture change. Without a statutory definition, it will be more difficult to make clear the potential remit of the proposed Domestic Abuse Protection Orders and the Domestic Abuse Commissioner (measures (b) and (c)), for instance. It will challenge assumptions that some people may have about domestic abuse; who constitutes a victim and what support is available for them as well as taking away the stigma from reporting or being seen as a domestic abuse victim. It will also create a definition to inform and be used in future work to tackle domestic abuse.

(b) Create the role of Domestic Abuse Commissioner

18. To meet the policy objectives, two options have been considered:

- a) **Option 1: Do Nothing.** The Designate Domestic Abuse Commissioner, appointed in September 2019, would continue to operate on a non-statutory basis, but without the legal powers to compel relevant public authorities to cooperate with her in the discharge of her functions and to respond to the Commissioner's recommendations, thereby significantly reducing the effectiveness and impact of the role.
- b) **Option 2: Establish the Domestic Abuse Commissioner in law.** The Commissioner will stand up for victims and survivors, raise public awareness, monitor the response of statutory agencies and local authorities and drive improvements in tackling domestic abuse. The scale of the problem, combined with the broad range of Government Departments, statutory agencies and third sector organisations who play a role in responding to Domestic Abuse, means that a specific, cross-cutting Commissioner for Domestic Abuse, vested with appropriate statutory powers, is warranted. The Domestic Abuse Commissioner will be able to work with and collaborate with other relevant Commissioners (for example, the Victims' Commissioner and Children's Commissioner).

19. **Option 2 is the Government's preferred option** because it will provide a louder voice for victims of domestic abuse and act as a 'critical friend' to ensure policies are fit for purpose and are achieving effective improvements.

(c) Create a domestic abuse protection notice and domestic abuse protection order

20. To meet the policy objectives, two options have been considered:

- a) **Option 1: Do Nothing.** This will maintain the current situation where a number of different protective orders are available to the courts but where there is not one clear route which can be used to specifically seek to secure comprehensive, protection and which may be tailored to protect against the different forms domestic abuse may take.

There is a wide range of protective injunctions that can already be used in domestic abuse cases, including non-molestation orders, occupation orders, restraining orders, Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs).

These orders vary in terms of who can apply for them, the conditions which may be attached and the consequences of breach. A range of parties including victims, agencies and the police can apply for different types of orders. There is no single order that is available across the criminal, family and civil courts.

For example, current DVPNs and DVPOs can only be used in cases where there has been violence or a threat of violence and not in cases where the abuse was not physically violent (for example, economic abuse or emotional abuse). Furthermore, DVPOs can only be in force for a maximum of 28 days. The current protective order regime can only impose prohibitions rather than positive requirements (that is, perpetrators attending a domestic abuse behavioural change programme or a substance misuse programme, or attending a mental health assessment). Only some have notification requirements and there are currently no express powers in legislation for the use of electronic monitoring (EM) in a civil order. Breaches of non-molestation orders and restraining orders are criminal offences, whereas breaches of DVPOs and occupation orders are not criminalised.

- b) **Option 2: Create a Domestic Abuse Protection Notice (DAPN) and Domestic Abuse Protection Order (DAPO)** These will combine the strongest elements of the existing regime to create a comprehensive and more flexible pathway for victims and practitioners, including the police, seeking to protect domestic abuse victims. The existing Domestic Violence Protection Notice (DVPN) and Domestic Violence Protection Order (DVPO) will be repealed, but other protective orders such as non-molestation orders and restraining orders will remain in place for use in cases which are not domestic abuse-related (for example, cases of stalking and harassment by individuals who are not family members or current or former intimate partners).

Both the DAPN and the DAPO will be able to be used to protect victims from all forms of domestic abuse, not just from violence or the threat of violence. DAPOs could be applied for by victims, the police, any specified third party as set out in regulations, and any other party given leave of the court to apply. In addition, the Bill will contain power for the criminal, civil and family courts to make DAPOs of their own volition during other proceedings. The DAPO will last for a specified period or until further order by the court depending on the risk posed to the victim and the specific facts of each individual case (with the ability for variation or discharge of the order at any stage) and courts will be able to attach tailored conditions to the order setting out both prohibitions and positive requirements, including electronic monitoring. Breach of the order or notification requirements without reasonable excuse would be a criminal offence carrying a maximum penalty of five years' imprisonment, or a fine, or both. In the alternative, breach may be dealt with as a civil contempt of court.

The Government will support the introduction of DAPNs and DAPOs with a programme of work which will include training, guidance, communications and awareness-raising for key agencies. In addition, the new order will be piloted in a small number of areas across the country to assess its effectiveness before any national roll out.

21. **Option 2 is the Government's preferred option.** This will introduce a 'go to' protective notice for the police (DAPN) and order (DAPO) for the courts which are envisaged to provide more effective, flexible and longer-term protection for victims than the range of existing protective orders currently used in domestic abuse cases.

- (d) Extend extraterritorial jurisdiction over specified offences as necessary for ratification of the Istanbul Convention**

22. To meet the policy objectives, two options have been considered:
- a) Option 1: **Do Nothing.** Not legislating would mean that the UK could not ratify the Istanbul Convention, thereby foregoing an opportunity to demonstrate the UK's full commitment to ending violence against women and domestic abuse. Victims of those violent and sexual offences covered by the Convention in respect of which the UK courts do not currently have extra-territorial jurisdiction would not be able to seek justice in our domestic courts in appropriate cases where the alleged offence is committed abroad by a UK national or resident.
 - b) Option 2: **Extend extraterritorial jurisdiction over specified offences as necessary for ratification of the Istanbul Convention.**

23. **Option 2 is the Government's preferred option** because it will enable the Government to move towards ratification of the Istanbul Convention, increasing protection for victims of those violent and sexual offences covered by the Convention when committed overseas. Ratifying the Convention will enhance the reputation of the UK as a world leader in tackling domestic abuse and violence against women.

(e) Place the guidance underpinning the Domestic Violence Disclosure Scheme (DVDS) on a statutory footing

24. To meet the policy objectives, two options have been considered:
- a) Option 1: **Do Nothing.** This will maintain the current situation where the scheme is not consistently applied across forces. This likely results in missed opportunities for the scheme to be used and potentially reduces the sharing of information with potential victims of domestic abuse.
 - b) Option 2: **Place the guidance underpinning Domestic Violence Disclosure Scheme on a statutory footing:** This will require the police to have regard to the guidance and so improve consistency in the application of the scheme.

25. **Option 2 is the Government's preferred option** because it will raise awareness of the DVDS and drive better consistency in its application

(f) To make provision in primary legislation for the prohibition of cross-examination in person in specified circumstances in family and civil proceedings, and to give courts the power to appoint advocates funded from central funds to undertake cross-examination in specified circumstances.

26. To meet the policy objectives, two options have been considered:
- a) Option 1: **Do nothing.** No changes are made to the primary legislation concerning the cross-examination of vulnerable witnesses in family proceedings.
 - b) Option 2: **To make provision in primary legislation for the prohibition of cross-examination in person in specified circumstances in family and civil proceedings, and to give courts the power to appoint advocates funded from central funds to undertake cross-examination in specified circumstances.**
27. **Option 2 is the Government's preferred option.** Currently, family courts have some powers to prevent cross-examination in person and to provide for alternative means of cross-examination (e.g. cross-examination conducted by the judge or justices' clerk) but they have no power to appoint a publicly funded legal representative to conduct the cross-examination on the party's behalf. This means that, in some circumstances, and particularly in complex cases, the current powers may not be sufficient to safeguard the European Convention of Human Rights Article 6 and 8 rights of the party prevented from conducting

cross-examination. While avoiding additional departmental expenditure, this will not meet the policy objectives and concerns of stakeholders.

28. Similarly, the Government has accepted the Civil Justice Council's recommendation that a prohibition on cross-examination in person in civil proceedings should also be enshrined in primary legislation, together with giving the court the power to appoint an advocate who would represent individuals for the cross-examination element of these proceedings. This would, like in family proceedings, be paid from Central Funds and administered by the Legal Aid Agency. Option 2 will establish a clear prohibition and a system for the use of alternative methods of cross-examination including, where necessary, the appointment and funding of legal representatives.

(g) Mandatory polygraph examinations of high risk domestic abuse offenders.

29. To meet the policy objectives, two options have been considered:

a) Option 1: **Do Nothing**. At present the NPS and other agencies do work closely together to monitor the licence conditions of high risk domestic violence perpetrators. However, knowing whether or not an offender has breached their licence conditions is often reliant upon self-reporting or, for instance, on the contested reports of observers regarding breach of a non-contact condition. This leaves high risk offenders considerable scope to breach their licence conditions without any detection of their actions.

b) Option 2: **Mandatory polygraph examinations of high risk domestic abuse offenders**. This will involve an initial three-year pilot, with a view to full roll out providing the results of the pilot demonstrated that there were clear informational benefits to offender managers. An offender would not be recalled to custody for failing a polygraph examination, nor could information gathered during the polygraph be used in courts. However, if the offender makes disclosures that indicate they have breached other licence conditions or that the risk has increased to a level whereby they can no longer be safely managed in the community, then recall could be instigated. Information gleaned in polygraph tests could also trigger further investigation. In addition, if the offender refuses to take the test, or attempts to sabotage it in any way, then recall may take place.

30. **Option 2 is the Government's preferred option**. Although there is a body of evidence on the reliability of the polygraph in general terms and the NPS polygraph examinations of sexual offenders has proved to be successful, there is currently very little evidence of its potential with domestic abuse perpetrators.

(h) Create a legislative assumption that all adult domestic abuse victims are to be treated as eligible for special measures in the criminal courts on the grounds of fear and distress (if the victim wants such assistance):

a) Option 1. **Do nothing**. At present, courts must decide whether a victim or witness is eligible for special measures to reduce stress associated with the giving of evidence on grounds of age or disability ("vulnerable witness") or on grounds of fear or distress ("intimidated witness"). Secondly, the court must consider whether any of the available special measures are likely in that particular case to improve the quality of the evidence and if so, which measure or combination of measures would achieve this. While some victims of domestic abuse may qualify as intimidated witness, not all would be eligible.

b) Option 2. **Create a legislative assumption that adult domestic abuse victims are to be treated as eligible for special measures in the criminal courts on the grounds of fear and distress (if the victim wants such assistance)**.

31. There are a range of special measures that adult victims of domestic abuse could automatically be eligible to be considered for (under 18s are already automatically eligible for special measures, and will, therefore not be impacted by this policy measure). The special measures in question fall under the Youth Justice and Criminal Evidence Act 1999 (YJCEA) and include:
- Screening a witness from seeing the defendant;
 - Allowing a witness to give evidence by live video link;
 - Hearing a witness in private;
 - Dispensing with wearing of wigs and gowns;
 - Admitting video-recorded evidence as evidence in chief and cross-examination¹⁴;
- (i) **Option 2 is the Government’s preferred option.** While automatic eligibility will not necessarily guarantee that a special measure will be granted in any particular case, it will remove the step of the victim having to establish eligibility on grounds of being in fear and distress. This will bring domestic abuse victims in line with complainants in modern slavery offences and sexual offences, who are treated as eligible for special measures on grounds of fear and distress. **Protect security of tenure for domestic abuse victims**
32. This measure is included in the Bill. The full details of the measure have previously been published in the Department for Communities and Local Government’s ‘Secure Tenancies (Victims of Domestic Abuse) Bill 2017-19: Note of impacts’.¹⁵
33. When local authorities are re-housing an existing lifetime tenant who needs to move or has recently moved from their social home to escape domestic abuse, or are granting such person a new sole tenancy in their existing home after the perpetrator has left/been removed, the tenant will be given a further lifetime tenancy. This measure will ensure that the use of fixed term tenancies is not a disincentive to prevent those who suffer domestic abuse from leaving the perpetrator and that the victims are provided with stability and security in their home. The secure tenancies measures within this Bill will apply to tenants of local authorities and Private Registered Providers of social housing (housing associations) in England.
- (j) **Introduce a statutory duty on tier one local authorities in England to provide support services to domestic abuse victims and their children in safe accommodation.**
- a) Option 1: **Do nothing.** At present, local authorities are not under any duty to provide support in safe accommodation and in some areas, local authorities are not commissioning any, or else insufficient, services. To do nothing will not address this lack of support and accountability and will not ensure full coverage in England, leaving victims and their children without access to accommodation-based support when they need it.
- b) Option 2: **Introduce a statutory duty on tier one local authorities in England to provide support services to victims and their children in safe accommodation.** The duty will require local authorities to form local partnership boards and commission support services in safe accommodation, informed by local needs assessments and strategies. Local authorities will also be required to monitor service delivery and report

¹⁴ To date, video recorded cross-examination has only been rolled out to vulnerable witnesses in 3 Crown Courts to date and will only be rolled out to Crown Courts – not magistrates – in respect of vulnerable witnesses. There will be a test for use of pre-recorded cross-examination in relation to victims of sexual offences and modern slavery offences in 3 Crown Courts. This will inform whether pre-recorded cross-examination is feasible for intimidated witnesses more widely in England and Wales.

¹⁵ <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsofdomesticabuse/documents.html>

outcomes to central government. Government will be required to produce guidance to accompany the duty.

34. **Option 2 is the Government's preferred option.** A statutory duty, underpinned by statutory guidance, will promote a consistent to delivering support in domestic abuse safe accommodation across England. Such a duty will safeguard provision, ensure dedicated sustainable funding and increase local accountability through monitoring and reporting outcomes.

(k) To make provision for the automatic eligibility for special measures in the civil and family courts.

35. To meet the policy objectives, two options have been considered:

a) Option 1: **Do nothing.** No changes are made to the primary legislation concerning providing for automatic eligibility for special measures in the civil and family courts.

b) Option 2: **To make provision in primary legislation for a presumption of eligibility for special measures for vulnerable witnesses and respondents/applicants in civil and family proceedings.** Special measures are a series of provisions that help vulnerable witnesses give their best evidence in court and help to relieve some of the stress associated with giving evidence. These are already available in the criminal and family jurisdictions, but the Government agrees that should also be extended to the civil courts. While the Civil Justice Council did not specifically recommend this should also be enshrined in primary legislation, but instead left to the flexibility of court rules, however, the Government believes that placing this eligibility on a statutory footing will signal it's commitment to tackling this issue head on. Although special measures are available in the family courts the Government agrees that vulnerable parties involved in these proceedings should similarly be presumed to be eligible for them.

36. **Option 2 is the Government's preferred option,** as it will provide parity of protection for vulnerable witnesses and applicants/respondents across all jurisdictions.

(l) Amend the Housing Act 1996 to give those who are homeless as a result of fleeing domestic abuse priority need for accommodation secured by the local authority.

a) Option 1: **Do nothing.** Currently the housing authority has to consider if a victim of domestic abuse is 'vulnerable' as a result of their domestic abuse in order to be identified as having a priority need. Many victims of domestic abuse will already be considered to have priority need for another reason, for example caring for dependent children. However to do nothing would mean some victims of domestic abuse who do not have priority need for another reason will continue to have to be assessed as being vulnerable and will not be guaranteed a duty of accommodation provided by the authority. The lack of certainty of accommodation under the 'do nothing' option may risk some victims deciding to stay with their abuser for fear of becoming homeless.

b) Option 2: **Amend the Housing Act 1996 to give those who are homeless as a result of fleeing domestic abuse priority need for accommodation secured by the local authority.** This change will mean that consideration of vulnerability will no longer be required in order for domestic abuse victims to have priority for settled housing. We understand that victims fleeing domestic abuse are inherently vulnerable. If the authority is already satisfied that a household is homeless due to fleeing abuse they should not need to go through an additional layer of assessment to assess the impact of the abuse, and

whether it has rendered them vulnerable to the extent that they have priority need.

37. **Option 2 is the Government's preferred option.** Extending priority need to victims of domestic abuse who are eligible and homeless will mean that victims no longer need to prove that they are vulnerable as a result of their abuse. This should allow more victims without dependent children to access accommodation and prevent the fear of homelessness for victims seeking to flee abuse.

(m) Provide clarification that consent to serious harm for sexual gratification is not a defence in law.

a) Option 1: **Do nothing.** Caselaw currently provides that a person is unable to consent to actual bodily harm or other serious injury and, by extension, their own death. To do nothing on this matter, would mean that the current law would continue as it is now. It would not, however, address the perception that the law is not clear in this area or address the concerns that have been raised that offenders are using the so-called rough sex defence to escape justice or, where convicted, receive a reduction in sentence.

b) Option 2: **Clarify the law to state that consent to serious harm for sexual gratification is not a defence in law.** Codifying the broad principle currently set out in case law, i.e. that in the case of *R v Brown*, would make clear in statute that a victim is unable to consent to serious harm, or by extension, their own death where that occurred during sadomasochistic sexual activity (so-called rough sex). By placing this provision in statute, however, it will also be necessary to make an exception for HIV/sexually transmitted infection (STI) cases where consent may be claimed by a defendant, where it can be established that a victim consented to sexual activity knowing that a person had HIV or STI.

38. **Option 2 is the Government's preferred option.** This will provide the clarity to the law requested and aims to prevent claims of consent to serious harm for sexual gratification by a defendant.

E. Appraisal.

39. This IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society could be as a result of implementing the preferred option. The costs and benefits of each measure are compared to the 'base case' option (Option 1: 'Do nothing'), that is, where the proposed measures in the Bill are not introduced. As this would involve comparing the base case option to itself, its costs and benefits are necessarily zero as will be its Net Present Value (NPV).
40. For the majority of the measures, there are only estimated monetised costs and it has not been possible to monetise benefits. This is because there is less certainty around the modelling of benefits, as the benefits either cannot be monetised (for instance, victims feeling safer) or rely on an observed decrease in domestic abuse offences or the seriousness of domestic abuse offences. The non-monetised benefits for victims and wider society are summarised under the relevant measures below and in a narrative at the end of this section where the benefits associated with all the measures are discussed (paragraphs 206-216). By their nature, these benefits do not imply that the measures will be financially cost-neutral for Government as many will accrue to the victims rather than take the form of cashable savings.

41. Since the draft Bill IA which was published in January 2019¹⁶, a number of costs have been added or estimated, based on either new provisions which have since been added to the Bill, or additional data which has been obtained since the January 2019 IA. Where costs have been updated since the January 2019 IA this has been identified in the paragraphs below, and a comparison to the previous estimates is provided where costs have significantly changed (for example, police costs associated with protection orders).
42. All monetised costs have been included in 2019/20 prices. Where these estimated costs were based on different price years, these have been adjusted according to the latest GDP deflator. Present value costs¹⁷ have been estimated over a 10-year appraisal period from 2019/20 to 2028/29 with an implementation year of 2021/22¹⁸, discounted by the social rate of discount, 3.5 per cent per year¹⁹. Unit costs have been provided by each justice system agency and details on these costs are provided in the relevant sections.
43. Optimism bias of 15 per cent has been applied to all estimated costs and savings²⁰ due to the various cost uncertainties with the measures, and to counterbalance the psychological tendency among appraisers to undervalue costs of policy measures¹⁶. Note that underlying volume and unit costs figures presented below do not have optimism bias applied. Instead, optimism bias is applied to estimated summary costs. While presented as a single option, each of the measures outlined above have been modelled separately, and presented as such in the cost-benefit analysis.
44. The main identified drivers of estimated costs to the justice system associated with measures in the Bill are prison place impacts of measures (c) and (d), legal aid payments of measures (c), (d) and (f) and HMCTS resource costs of measure (c).
45. Measures (c) and (e) present a range of estimates, recognising that there are areas where assumptions are uncertain.
46. These estimates depend on a number of modelling assumptions and cannot be regarded as firm predictions. For further detail regarding the assumptions used in analysis, and associated risks, refer to the 'Risks and assumptions' section which includes a breakdown by measure.
47. The Ministry of Housing, Communities and Local Government (MHCLG) has confirmed that the expected impact of the secure tenancies provisions remains as the Department for Communities and Local Government set out in the 'Secure Tenancies (Victims of Domestic Abuse) Bill 2017-19: Note of impacts'.²¹ The NPV of this option is therefore not included in the overall NPV of the preferred option.

(a) Introduce a statutory definition of domestic abuse:

Costs of Measure (a)

Monetised costs

48. It has not been possible to identify any monetised costs associated with this measure.

¹⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817503/Draft_Domestic_Abuse_Bill_-_Impact_Assessment.pdf

¹⁷ Costs do not include costs associated with measure (i), as the costs of this measure have assessed elsewhere.

¹⁸ Apart from the DA Commissioner, which has an assumed implementation date of 2019/20

¹⁹ <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

²⁰ Costs do not include costs associated with measure (i)

²¹ <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsdomesticabuse/documents.html>

Non-monetised costs

49. Enshrining the definition in statute is likely to have very little cost attached to it as it is envisaged that it will largely mirror the existing non-statutory cross-Government definition (with the exception of the inclusion of economic abuse). The definition also recognises that children can be impacted by domestic abuse through seeing, hearing or experiencing the effect of it. However, there are likely to be some small familiarisation costs for users of the definition. The definitions used by Government agencies in other legislation will not be superseded by the statutory definition.
50. The inclusion of 'economic' rather than just 'financial' abuse is likely to have very little cost impact in practice. The change in wording is to clarify that economic domestic abuse can include more than limiting or depriving victims of money. For example; it can include debt bondage or preventing the victim from getting a job.

Benefits of Measure (a)

Monetised benefits

51. It has not been possible to identify any monetised benefits associated with this measure.

Non-monetised benefits

52. Placing the cross-Government definition of domestic abuse into statute will send a clear message about the seriousness of domestic abuse and make a clear statement of its unacceptability within our society. It would also raise awareness and improve understanding of the many forms domestic abuse can take.
53. The Government is aiming to promote a culture change around domestic abuse by explicitly including non-violent domestic abuse, and particularly economic abuse within the definition. This is aimed to help police and other agencies better understand the many and varied forms that domestic abuse can take. It will also recognise that children can be impacted by domestic abuse through seeing, hearing or experiencing the effect of it.

Net quantifiable impacts of Measure (a)

54. It has not been possible to quantify the net estimated impacts associated with this measure.

(b) Establish in law the role of Domestic Abuse Commissioner:

Costs of Measure (b)

Monetised costs

55. The budget for the Domestic Abuse Commissioner is likely to be around £1 million per year which will be provided by the Home Office. With the additional 15 per cent optimism bias applied this is estimated at £1.15 million per year. This will provide for the Commissioner's salary and variable overhead costs, as well as the employment of a team of support staff. It assumes the Commissioner will be supported by around 10 to 12 staff depending on the mix of grades and professions, consisting of policy, research and administrative support. It will enable the Commissioner and staff to travel, conduct research and produce reports, as the role requires. Since the January 2019 IA, a provision has been added to the Bill for the National Assembly of Wales to scrutinise the work of the Domestic Abuse Commissioner in Wales. However, it is assumed that this provision will not affect the overall budget for the Domestic Abuse Commissioner. Over a 10-year appraisal period from 2019/20 and assuming the Commissioner and their staff are appointed in 2019/20, the estimated Net Present Cost (NPC) is £9.9 million (PV).

Non-monetised costs

56. There are no identified non-monetised costs associated with this measure.

Benefits of Measure (b)

Monetised benefits

57. The Government has been unable to monetise the benefits of this policy measure.

Non-monetised benefits

58. The Domestic Abuse Commissioner will provide public leadership on domestic abuse issues, raising awareness of what domestic abuse is to increase understanding and reporting. Increased awareness by the victim, and those close to the victim, of the patterns of behaviour associated with domestic abuse is likely to increase reporting rates to the police. This is likely to allow domestic abuse to be reported earlier allowing the police to intervene and prevent the abuse from escalating²².

59. The Domestic Abuse Commissioner will also be able to challenge a wide range of public agencies to improve their response to domestic abuse and promote channels of support to victims of domestic abuse²³. This should result in a better local and national response to domestic abuse through early intervention to reduce escalation of abuse, increase reporting and provide better support to victims.

60. The Domestic Abuse Commissioner will engage with a wide range of Government Departments, statutory agencies and third sector organisations, who all play a role in responding to domestic abuse, and will also be able to work with other Commissioners (for example, the Victims' Commissioner, Children's Commissioner) to champion the needs of victims and their children.

Net quantifiable impacts of Measure (b)

61. The estimated quantified net impact of this measure, assessed in isolation, is a £1.15 million cost per year. Over a 10-year appraisal period from 2019/20, the estimated Net Present Cost (NPC) is £9.9 million (PV).

(c) Create a domestic abuse protection notice and domestic abuse protection order:

62. The estimated impacts of measure (c) fall into two broad categories: impacts associated with process change and those associated with scope widening:

- Process change²⁴ refers to the existing elements of the protective order framework that measure (c) proposes to change for the baseline volume of orders granted (for example, use of positive requirements, notification requirements, Electronic Monitoring (EM) and criminalisation of breach).

²² Currently victims of domestic abuse are unlikely to report the abuse in its early stages. A report from SafeLives suggests victims of domestic abuse have to wait for between 2.5 and 3 years on average before getting effective help and that victims report abuse to the police between 2 and 3 times on average in the year before getting effective help <http://www.safelives.org.uk/sites/default/files/resources/Getting%20it%20right%20first%20time%20-%20complete%20report.pdf> (pg. 13).

²³ For example, it is known that those victims who have access to the support of an Independent Domestic Violence Adviser experience improved feelings of wellbeing and safety <http://www.communitycare.co.uk/2010/01/21/the-role-of-independent-domestic-violence-adviser-services/>

²⁴ Process change does not refer to implementation costs (for example, training and IT) that will be incurred to enable the above changes to protective order processes to take place.

- Scope widening refers to the start to end impacts of a given percentage increase in the annual volume of protective order applications (from application stage through to proceedings flowing from a breach, if applicable).
63. To reflect the legislation, this IA assumes that DAPOs will first be introduced on a pilot basis. The scope and length of the pilot has not yet been determined, so for the purpose of this IA it is assumed that the pilot will have approximately 10 per cent national coverage and will last for two years, before DAPOs are fully rolled out nationally from 2023/24 onwards. Although these are illustrative assumptions, this provides a more accurate reflection of the DAPO introduction than the January 2019 IA, which did not assume a pilot period. Where average annual figures are shown they are for full roll out.
64. Process change impacts can be attributed to the following three changes to the protective order process, as included in the measure. The current position on these varies by protective order:
- a) Enabling DAPOs to be flexible in duration, so that they last for a specified period, until a specified event, or until further order. (Current DVPOs have a maximum duration of 28 days).
 - b) Expanding the powers of courts to attach positive requirements, notification requirements and Electronic Monitoring (EM) to protective orders.
 - c) Criminalising breach of DAPOs and breach of notification requirements.
65. Of the changes outlined above, criminalisation of breach (c) accounts for the largest proportion of estimated impacts associated with process change.
66. The number of protective order applications could increase through the broadening of the application routes i.e. by allowing specified parties to apply on behalf of victims²⁵ and enabling the orders to be used to protect against all forms of domestic abuse, not just against violence or the threat of violence. Due to uncertainties about the impact of this measure, an increase in application volumes of between 5 to 10 per cent has been assumed. The estimates below present a range of impacts based on this assumption.
67. Modelling of scope widening includes the estimated impacts for the following activities relating to protective orders: application, court hearing, conditions/monitoring and breach. The summary of monetised impacts from scope widening are presented from paragraph 83²⁶.

Costs of Measure (c)

Monetised costs

Process change

68. Where possible, the monetised costs of each process change listed in paragraph 65 are outlined below.
- a) *Enabling DAPOs to be flexible in duration, so that they last for a specified period, until a specified event, or until further order (Current DVPOs have a maximum duration of*

²⁵ Voluntary or statutory agencies could apply for a protective order on behalf of the victim with the court's permission, depending on how support provision is managed in the local area.

²⁶ Modelling of scope widening impacts includes the process changes (for example, use of positive requirements and criminalisation of breach) that have been costed for the baseline volume of orders, to reflect the new processes that would occur for all new applications and orders granted

28 days) – Impact has not been quantified, further detail is included in the ‘non monetised costs’ section.

- b) *Expanding the powers of courts to attach positive requirements, notification requirements and Electronic Monitoring (EM) to protective orders* – The costs to the justice system of funding the additional provision of positive requirements are covered below. Costs associated with responsible authorities monitoring the use of EM as a DAPO condition have not been monetised. This is explained under ‘non monetised costs’.

Positive requirements

69. Due to the lack of evidence, modelling has assumed a 30 percentage point increase in the proportion of DAPOs²⁷ with a positive requirement due to the process change. Applying this assumption to the relevant subset of baseline protective order volumes suggests approximately 15,200 DAPOs could have a positive requirement.
70. These positive requirements are assumed to be funded by the police and other local commissioners (such as local authorities, PCCs and Clinical Commissioning Groups). An example of a positive requirement is a perpetrator programme such as CARA, a short awareness raising programme of workshops (as trialled by Hampshire Constabulary²⁸). Estimated agency impacts associated with the provision of additional programmes using CARA as a proxy are below (however, other more intensive programmes²⁹ may be used in some circumstances which may have much higher costs):
- Police: £70,000 per year (assuming that 4% of low-cost programmes are funded by the police³⁰).
 - Other: £1.7 million per year (assuming that 96% of low-cost programmes are funded by the other agencies and local commissioners). Without a better understanding of the funding split of these perpetrator programmes, analysis has grouped together these impacts and allocated them to ‘Other groups’.
 - Police: There may also be an additional cost to the police if they are requested to provide information to support the application for a DAPO which includes positive requirements. Based on information provided by police forces it will take around one and a half hours of police time to provide this information. Scaling up across all non-police led positive requirements, this results in a total cost of £0.7 million per year to the police.
 - Electronic Monitoring costs have not been monetised for the purposes of this IA. Use of electronic monitoring as part of a DAPO will be piloted in order to determine how, in what circumstances and to what extent EM may have a role as a tool to support the purposes of a DAPO. It is not possible to assess the EM element of a DAPO until that piloting has been conducted³¹.

²⁷ Due to unavailable data on the number of orders with a positive requirement as a condition, modelling has assumed a baseline of zero (that is, no orders currently have positive requirements attached as a condition).

²⁸ Details of Project CARA and analysis of the randomised controlled trial were published in the Cambridge Journal of Evidence Based Policy: <https://link.springer.com/content/pdf/10.1007%2Fs41887-017-0007-x.pdf>

²⁹ For example the Domestic Violence Perpetrator Programme commissioned by Cafcass

³⁰ Analysis provided by SafeLives to the Home Office on commissioning of domestic abuse services, in general, has informed this assumption. More information is needed to better understand the funding split and estimate which organisations could bear the impact of an increase in perpetrator programmes attended.

³¹ There are a number of reasons for this: using the service as it is currently configured as a guide are likely to be unreliable as the current configuration is not inclusive of wider impacts on for example, probation, the police, courts and providers of the other interventions that may be required. Further complexity is the potential for a DAPO to be imposed in civil or criminal court proceedings; the current EM service only applies

- There is a further non-monetised cost for responsible authorities having to monitor perpetrators complying with their conditions. For every positive requirement attached to the order, the order must specify a named person or organisation who is responsible for 1) advising the court of the suitability and enforceability of the requirement, 2) putting the arrangements in place to deliver the requirement, 3) supervising and promoting the perpetrator's compliance with the requirement, 4) informing the police if the perpetrator does or does not comply with the requirement, 5) keeping in touch with the perpetrator as required, including receiving information from the perpetrator if their home addresses changes or if they cease to have a home address.

Notification requirements

71. Since the January 2019 IA, the costs to the police related to notification requirements have been estimated. All DAPOs will include mandatory notification requirements, which require perpetrators to notify the police of their name and address and any subsequent changes to this information. Given a lack of data, it is assumed that police will need to update their records following changes to perpetrators' names and addresses for 20 per cent of all DAPOs. This results in an estimated 10,100 notifications at an annual cost of around £80,000 per year, assuming that it takes 10 minutes of police time per notification.

Criminalising breach of DAPOs

72. Criminalisation of breach could impact justice system agencies through additional breach proceedings in the criminal courts (impacting HMCTS and the LAA) and the subsequent disposal of convicted defendants to custodial sentences or community supervision (impacting HMPPS). Estimated agency impacts are summarised below in paragraph 82.
73. There are two domestic abuse related protective orders in scope for this process change whereby breach is not currently a criminal offence: the DVPO and the occupation order. The assumed breach rates for these orders is 28 per cent³². For the purposes of the modelling it is assumed all of these breaches will, following implementation of the DAPO, require a hearing in the criminal courts, resulting in an estimated 1,800 additional hearings in the criminal courts. In practice, breach of a DAPO can instead be dealt with as a civil matter, as contempt of court, but it is not possible to assess what proportion will be dealt with at this stage. The location of hearings, between the magistrates' courts and Crown Courts, is based on the split for proxy offences (for example, breach of a non-molestation order). Incorporating this split allows our modelling to reflect the differing costs associated with hearings at magistrates' courts and Crown Courts. Data on location split is not available at the offence level, so the split of the offence category for which these proxy offences fall under, which is 'public order offences', is used (93% in the magistrates' courts and 7% in the Crown Courts)³³.
74. All criminal proceedings will be subject to pre-charge advice, which is provided by the CPS. The national average consultation rate of 1.27 consultations per defendant has been applied to the anticipated volumes. In addition, the CPS provide representation to support the prosecution in court, therefore contest rates have been applied to the estimated additional 1,800 hearings in the criminal courts. Contest rates represent the proportion of proceedings

to criminal proceedings, so may not provide an accurate model. At this stage it is not known which technology may be deployed; the legislation is deliberately silent on which types of technology could be used, consultation responses showed an interest in alcohol and proximity monitoring which would be new for the service.

³² Data provided to the Home Office by Her Majesty's Inspectorate of the Constabulary, Fire and Rescue Services for year ending June 2016 showed a breach rate of 28 per cent. Published data for the same time period shows the breach rate of non-molestation orders to be 28 per cent also. In the absence of breach data on occupation orders, the breach rate of non-molestation orders has been assumed.

³³ Based on the 2016 'prosecutions and convictions tool' published by CJS statistics.

where the CPS are involved and a guilty plea is not made, or the plea outcome is mixed. CPS modelling assumes that approximately 14 per cent of magistrates' courts and 19 per cent of Crown Court proceedings are contested. These contest rates are provided by the CPS and are based on the principal offence category and mode of trial (for example, triable either way or indictable only) most appropriate to the breach of protective order offence. The CPS estimated costs based on their National Resource Model for each type of proceeding (based on unit costs for guilty plea and contested proceedings in the magistrates' courts and Crown Court).

75. Criminalisation of breach will have a potential impact on the LAA in the form of criminal representation at additional breach proceedings progressing through the criminal courts. Modelling assumes that 50 per cent of defendants in the magistrates' courts and 93 per cent³⁴ of defendants in the Crown Court will receive criminal legal aid representation.
76. If breaches of DAPOs lead to a custodial or community sentence, where this was not previously the available disposal, there could be an additional cost to HMPPS of supervising these offenders. Applying the conviction rate of breached non-molestation orders as a proxy offence to the estimated 1,800 breached protective orders results in an additional estimated 1,400 convictions³⁵. Of those convicted, modelling assumes 17 per cent receive custodial sentences, including supervision on licence, 42 per cent receive community or suspended sentences with the remaining receiving other disposals (for example a fine).
77. Custodial sentences: Assuming the disposal distribution of non-molestation orders as a proxy, this could result in approximately an additional 200 custodial sentences³⁶. The Average Custodial Sentence Length (ACSL) for the proxy offence is approximately four months³⁷. Assuming that each offender receiving a custodial sentence spends on average two months in custody (based on spending half of the four-month sentence in custody and the rest on community supervision), there will be an estimated impact to HMPPS of approximately 30 additional FTE prison places per year. At an average yearly cost of £25,500 per place, this will equate to around £0.8 million per year^{38,39}.
78. *Probation supervision on licence*: Depending on the offender's sentence length, half of their custodial sentence will be spent under community supervision. If the sentence length is under two years, then an offender will receive community supervision for a 12-month period as a minimum. Therefore, as the ACSL of the proxy offence (breach of a non-molestation order) is four months, there will be an estimated increase in the number of offenders receiving 12-month supervision. The total estimated impact to HMPPS associated with the

³⁴ Criminal Court statistics (2016) show that 93 per cent of defendants in the Crown Court are represented. Legal aid impacts would, therefore, only apply to this proportion of defendants. Within this group, there is an unknown proportion of defendants that are represented privately. Modelling has assumed close to 100 per cent eligibility for those represented defendants as a working assumption, and reflecting the fact that all defendants, even if privately represented, will need to apply for legal aid if they wish to seek reimbursement from central funds for private representation. Latest published statistics: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/623096/ccsq-bulletin-jan-mar-2017.pdf

³⁵ Assuming that 74 per cent of prosecutions for public order offences reach a conviction, according to the CJS statistics (2016): <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2016>

³⁶ The "do nothing" disposal distribution for those who currently breach a DVPO or an occupation order would be the disposal outcomes for 'civil contempt of court'. Sentencing outcomes are not available in published or internal MoJ statistics for this group of offenders. The nearest offence, therefore, to capture the 'current' sentencing distributions for this group of perpetrators is: 195 Magistrates Courts Act 1980 (except S.106). This looked to be the closest offence to 'Magistrates Courts Act 1980 (section 63)'. The majority of those sentenced in the 'current' distribution receive a 'total otherwise dealt with' disposal. The impacts associated with using the proxy offence, therefore, show a considerably large volume shift of offenders from one disposal to others.

³⁷ Based on the published December 2016 'criminal justice statistics outcomes by offence tool'.

³⁸ Based on published costs of annual prisoner places:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653972/costs-per-place-per-prisoner-2016-2017-summary.pdf

³⁹ It should be noted that prison costs do not account for any potential additional capital costs that might be associated any construction of new facilities.

additional 200 offenders receiving supervision on licence, after time in custody, is £0.6 million (including pre-assessments conducted by the NPS and management of offenders by both NPS and CRCs⁴⁰).

79. *Community sentences*: Using the proxy offence (breach of a non-molestation order), criminalisation of breach could result in an additional 600 community and suspended sentence orders, requiring offender management supervision by the NPS and CRCs. The total estimated impact to HMPPS associated with this increase in offenders receiving community and suspended sentence order supervision is £2.3 million per year (including pre assessments conducted by the NPS and management of offenders by both NPS and CRCs⁴¹).
80. To summarise, applying the disposal distribution of the proxy offence results in an estimated 200 custodial sentences, 600 community/suspended order sentences and a remaining 500 sentences which are spread across disposals such as compensation, fines and 'total otherwise dealt with', which do not have a downstream cost for the justice system.
81. The estimated agency impacts of criminalising breach are summarised as follows:
- HMCTS (crime): £1.3 million per year associated with 1,800 additional breach proceedings.⁴²
 - CPS: £0.4 million per year⁴³ associated with the pre-charge advice and contest rates for an additional 1,800 breach proceedings.
 - LAA (crime): £0.9 million per year (applying the relevant internal unit costs⁴⁴ to an estimated 970 additional breach proceedings with LAA criminal representation).
 - HMPPS: £3.6 million per year (including 30 additional prison places excluding capital costs, pre-assessments by the NPS and supervision of 700 offenders by the NPS and CRCs)

Scope widening

82. The estimated monetised costs associated with scope widening are broken down by the stage of the process (from application through to breach), as detailed below:

Application

83. It is assumed that application volumes will increase by between 5 to 10 per cent due to the widening of application routes which would enable specified agencies and anyone with the court's permission to apply for DAPOs on a victim's behalf. In addition, the fact that DAPOs can be used to protect victims from all forms of domestic abuse, not just violence or the

⁴⁰ For offenders on licence: HMPPS outturn data for 2015/16 has informed the assumption that 19 per cent of offenders on licence for 12 months are managed by the NPS and 81 per cent are managed by the CRCs.

⁴¹ For offenders receiving supervision as part of a community or suspended sentence: HMPPS outturn data for 2015/16 has informed the assumption that 10 per cent of offenders are supervised by the NPS and 90 per cent by the CRCs.

⁴² Applying internal unit costs for 'public order offence' trials in the magistrates' and Crown Court respectively.

⁴³ Cost estimates provided by the CPS are based on the CPS National Resource Model (NRM) which is used to determine a unit cost figure for guilty plea and contested proceedings in the magistrates' and Crown Court. Unit costs represent CPS activity and are based on basic salary costs, excluding overheads and other corporate services. Costs are indicative only and do not necessarily represent the actual cost of each defendant outcome. There can be considerable variations in cost (both between and within offence types) depending on the characteristics of each case.

⁴⁴ Unit costs for magistrates' representation have been provided for conviction or acquittal outcomes. Defendants in the magistrates' are split according to the assumption that 74 per cent of public order offences reach a conviction. Therefore, of the 50 per cent of defendants receiving representation in the magistrates' courts, the conviction unit cost is applied to 74 per cent and the acquittal unit cost is applied to the remaining 26 per cent.

threat of violence, would also increase the volume of DAPO applications. Without data to inform what that percentage increase might be, this analysis illustrates the potential impacts of an assumed increase.

84. There would be additional agency costs associated with processing and supporting applicants for an additional 5 to 10 per cent estimated increase in applications.
85. Police: There are administration costs to the police from their time spent supporting DAPO applications. The unit costs to the police of supporting DAPO applications have been updated since the Draft Bill IA, using more up to date data provided by five police forces instead of historic data from the DVPO pilot.
86. This data indicates a unit cost of approximately £400 to £1,000 depending on whether the application is contested or uncontested respectively. Given that DAPOs may have a longer duration and/or more conditions than DVPOs, there may be an increase in the proportion of applications which are contested⁴⁵. Hence, in the upper bound cost estimate it is assumed that the proportion of applications which are contested increases by 15 percentage points. In the lower bound it is assumed that there is no change in the proportion of applications that are contested.
87. The estimated volume of DAPO applications made by the police has also been updated. The Draft Bill IA assumed that the volume of DAPO applications made by the police would be equivalent to the current volume of DVPO applications (around 5,700 per year), plus the 5 to 10 per cent increase as explained above. However, this IA assumes that the police will apply for a larger number of DAPOs than this, because they will also be able to apply for DAPOs which would have previously taken the form of victim-led or court-initiated non-molestation orders and occupation orders. There is no evidence to indicate what proportion of DAPOs will be applied for by the police, therefore estimates are highly uncertain and will be tested during the pilot to enable more robust estimates to be made in the future. For the purpose of this IA, it is assumed that the police will apply for between 20 and 50 per cent of all DAPOs⁴⁶ (which includes the previously mentioned 5 to 10 per cent increase in overall applications). It is therefore assumed that the police will apply for between 8,600 and 25,500 DAPOs per year, which represents an additional 2,900 to 19,800 orders per year compared to the baseline. However, it is expected that the proportions of applications made by different groups will change over time as the policy becomes embedded and awareness of the orders and the various application routes increases. The administration costs to the police of these additional DAPO applications are estimated at £1.6 to £11.3 million per year after the pilot period.
88. There is an additional cost to the police from making DAPO applications, in the form of increased court fees. This cost is not included in any Net Present Value calculations, as it represents a transfer of funds from the police to the courts rather than a net societal cost. Based on police data, it is assumed that the court fee is £226 for an uncontested DAPO application and £750 for a contested application. The court fees paid by the police for the additional DAPO applications are estimated at £1.0 million to £9.3 million per year after the pilot period, including 15 per cent optimism bias. As previously mentioned, this represents a transfer of funds rather than a net societal cost, so this is not included in any Net Present Value calculations. This fee would not be recoverable from the person against whom the order is made.

⁴⁵ It is assumed that 15 per cent of DVPO applications are currently contested, based on data provided by one police force.

⁴⁶ DAPO admin and application costs to the police will change considerably dependent on the actual proportion of DAPO applications made by the police.

89. During the pilot period total court fees for the police are estimated at £0.3 to £1.1 million per year, including 15 per cent optimism bias. However, the Government recognises that court application fees should not act as a disincentive to the police to apply for a DAPO where it is appropriate for them, rather than the victim or a specified third party, to do so. Therefore, the Home Office will cover the court fees of police DAPO applications for the duration of the pilot, at which point a decision will be taken on whether to continue to provide funding thereafter. As the funding of police applications for DAPOs after the pilot has not yet been determined, for the purpose of this IA it is assumed that the police will pay DAPO application court fees after the pilot.
90. HMCTS: Currently, there is no single protective order which is applicable across the criminal, family and civil courts. The DAPO measure will change this as it enables the order to be made across all types of court. Therefore, the modelling has broken down the estimated impacts of the additional protective orders by type of court using the proportion of current orders heard in each court⁴⁷.
91. The estimated increase in applications to a civil court⁴⁸ when DAPOs are implemented (1,300 - 2,700) has been apportioned to each of the current protective orders based on their contribution to the total baseline volume⁴⁹. HMCTS admin unit costs (excluding estates and overheads) have been applied, to reflect the resource time required for this activity.
92. LAA: Unlike the HMCTS impacts described above, LAA impacts have not been modelled for the application stage because applications are either police-led, led by a specified third party or anyone with the leave of the court (assuming there is no provision of LAA funding to these parties), or victim-led, in which case the cost of legal help for the victim to make the application cannot be separated from the overall cost of civil representation at a court hearing. The unit cost of civil representation used in the 'Court hearing' section includes some element of legal help, so this impact is captured later in the IA.
93. The estimated agency impacts after the pilot period associated with applications, including the 5 to 10 per cent increase, are as follows:
- HMCTS: £0.3 to £0.5 million per year. Unit costs of administration resource time have been applied⁵⁰).
 - Police: £1.6 to £11.3 million per year. Admin cost of the police supporting DAPO applications.
 - Police: £1.0 to £9.3 million per year. This is a transfer payment from the police to the courts so is not included in NPV calculations but it reflects the total cost to police after the pilot of making DAPO applications.

Court hearing

94. Once the application for a protective order has been received and administered by the courts, there would be agency impacts associated with processing the order through a hearing in the relevant court.

⁴⁷ Currently, DVPOs are processed in the magistrates' courts whilst non-molestation and occupation orders are processed in the family courts.

⁴⁸ DAPOs made in the criminal court on conviction of an offence are assumed to work similarly to the current restraining order, where a decision is made regarding granting a protective order at the sentencing stage of criminal proceedings for a separate offence. There is consequently no application cost in the modelling for on-conviction or acquittal DAPOs. There is no data on the time taken to make a decision on granting a restraining order, so it is therefore not possible to monetise the time taken on 'application' type activities.

⁴⁹ In mapping the 2015/16 baseline order volumes to the proposed DAPO framework, the volumes of DAPOs made in a civil courts are made up of: non-molestation orders (74 per cent), DVPOs (12 per cent), occupation orders (7 per cent) and restraining orders upon acquittal (6 per cent). Percentages do not sum to 100 per cent due to rounding.

⁵⁰ Unit costs represent staff time only, excluding estates and overhead costs.

95. LAA: Modelling includes costs to the LAA associated with civil representation for applicants (the victims) and criminal representation for defendants (the perpetrators). Assuming 10 per cent of defendants currently receive legal aid representation in DVPO applications⁵¹, the estimated impact of criminal representation to the LAA associated with approximately 20 to 40 additional defendants is estimated to be <£0.1 million per year.⁵²
96. Typically, victims make an application to the family court for a domestic abuse related protective order (for example, a non-molestation or occupation order). Modelling assumes that 50 per cent of applicants receive civil representation⁵³ (including assistance with the application before the court hearing). Modelling considers the estimated impact to the LAA of civil representation in approximately 600 to 1,100 additional applications (associated with an additional 5-10 per cent in applications respectively).
97. The estimated agency impacts associated with a 5-10 per cent increase in court hearings are as follows:
- HMCTS: £0.3 to £0.5 million per year. Unit costs of judicial resource time have been applied⁵⁴.)
 - LAA: £2.0 to £4.0 million per year.

Conditions

98. Applying the same assumptions as per paragraph 70 relating to the attachment of conditions to protective orders (for example, 30 per cent of DAPOs to impose a positive requirement), the estimated agency impacts associated with a 5 to 10 per cent increase in orders granted are summarised in the paragraph below.
99. Based on the estimated annual increase in numbers of orders granted once DAPOs are implemented, there could be an estimated additional 800 to 1,500 orders per year with positive requirements attached as a condition. The impacts associated with the increased application of positive requirements are:
- Police: £40,000 to £80,000 per year (funding 4 per cent of an additional perpetrator programmes, and providing information to support applications for positive requirements)
 - Police: £4,000 to £8,000 per year from notification requirements.
 - Others: £0.1 to £0.2 million per year (funding 96 per cent of additional perpetrator programmes)
 - Electronic Monitoring costs have not been monetised for the purposes of this IA.

Breach

100. Modelling the estimated impacts of additional breaches associated with a 5 to 10 per cent increase in protective orders made follows a similar approach, and uses the same

⁵¹ Based on MoJ analysis of DVPO pilot data.

⁵² In any case where a family court is considering making a DAPO against a respondent, the respondent will also be able to apply for legal aid, subject to the usual means and merits criteria. We expect this to be low and have not monetised.

⁵³ MoJ analysis has found that approximately 50 per cent of private family law applications are made ex-parte to the family court (that is, where the respondent is absent). Modelling has assumed an upper bound of 50 per cent representation for applicants, covering all of those applications made when the applicant is present in court.

⁵⁴ Unit costs represent staff time only, excluding estates and overhead costs.

assumptions as those outlined in paragraphs 77 to 82. Estimated agency impacts associated with additional instances of breach are outlined below⁵⁵:

- Police: £0.7 to £1.3 million per year (assuming a domestic incident police response⁵⁶ and the subsequent police actions undertaken following the additional 1,000 to 1,800 estimated breaches⁵⁷).
- HMCTS : £0.7 to £1.4 million per year (assuming the average breach rates of the current orders that would fall under the DAPO made in a civil context (27 per cent) and the restraining order upon conviction, translating into the DAPO made in the criminal court upon conviction of an offence (73 per cent), there could be an estimated additional 1,000 to 1,800 breach proceedings progressing through the criminal courts annually⁵⁸). In practice, some of these breaches could be dealt with as a civil contempt of court, but it is not possible to assess what proportion would do so at this stage.
- CPS: £0.3 to £0.5 million per year (assuming the pre-charge advice consultation and contest rates described above, as provided by the CPS, to the estimated additional 1,000 to 1,800 breach proceedings).
- LAA : £0.5 to £0.9 million per year (assuming criminal representation for 50 per cent and 93 per cent of defendants tried in the magistrates' court and Crown Court respectively for an estimated additional 1,000 to 1,800 breach proceedings, most of which are tried in the magistrates' courts⁵⁹).
- HMPPS: £2.5 to £4.8 million per year⁶⁰ (including an additional 30 to 50 prison places⁶¹, supervision of an additional 180 to 350 offenders on licence and an additional 280 to 520 offenders receiving community and suspended sentences). Costs include CRC⁶² payments.

Evaluation of the DAPO pilot

101. There will also be costs associated with evaluating the DAPO pilot scheme. This has been estimated using the costs of the DVPO pilot evaluation⁶³ as a basis, and uprating to 2019/20 prices. This equates to a one-off cost of around £280,000 to Government. For the purpose of this IA, we assumed that these costs will be incurred in 2022/23 but this depends on the duration and launch date of the pilot.

Non-monetised costs

Process change and scope widening

⁵⁵ As set out above, this modelling is based on criminal breach. In practice, breach of a DAPO can be dealt with as a civil matter, but it is not possible to assess what proportion would do so at this stage.

⁵⁶ The domestic incident cost of £440 has been taken from the Economic and Social Costs of Domestic abuse publication.

⁵⁷ Informed by the police actions undertaken following a breach within the DVPO evaluation. Source:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/506148/2016-03-08_DVPO_report_for_publication.pdf

⁵⁸ *ibid* footnote 64

⁵⁹ Based on our assumption that 93 per cent of breach hearings will be tried in the magistrates' court and 7 per cent in the Crown court, which itself is taken from existing breach data for non-molestation orders. Implicitly, it is assumed that of the 93 per cent due to be heard in the magistrates', none will elect to be tried on indictment in the Crown Court.

⁶⁰ Custodial impacts applied the unit cost of a prisoner place from a NOMS published report (2015/16) and community supervision costs for the NPS and CRCs were provided internally, including pre-assessment costs. Unit costs used for CRC activities exclude service credits and Payment by Results payments/penalties.

⁶¹ It should be noted that prison costs do not account for any potential additional capital costs that might be associated any construction of new facilities.

⁶² Assuming the same split of NPS/CRC managed offenders as process change analysis: 10 per cent of offenders on licence managed by the CRCs and 19 per cent of offenders on community/suspended sentence orders (under 12 months) managed by the CRCs. The remainder offenders are supervised by the NPS.

⁶³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/260897/horr76.pdf

102. Where a non-monetised cost associated with one of the various process changes has been identified, these are outlined below. As scope widening impacts include the process changes, the non-monetised costs identified here are relevant to both sets of impacts.

a) Enabling DAPOs to be flexible in duration, so that they last for a specified period, until a specified event, or until further order. (Current DVPOs have a maximum duration of 28 days.)

103. This IA does not consider the costs of variation, discharge or appeal processes. These elements will incur costs but have not been estimated because of uncertainty in how these elements will work in practice.

104. Police: There could be some impact to the police associated with enabling DAPOs to be flexible in duration. These impacts have not been monetised due to the uncertainty in how this flexibility will be applied. The extra resource required for processing notification requirements from the perpetrator as part of the DAPO over an extended period of time will have little anticipated impact, given the relatively small costs associated with notification requirements.

b) Expanding the powers of courts to attach EM conditions

105. Police: If a greater volume of protective orders have EM attached as a condition, additional police time will be required for the police to respond to alerts generated by the tags and enforcing them. This is likely to result in increasing costs. Without data to inform the likelihood of an alert being raised, or the cost associated with responding to an alert, this potential impact has not been monetised.

106. HMPPS: The Bill proposes to give courts an express power to impose EM as a requirement of a DAPO. Given that HMPPS fund the current provision of EM tags, there will be a cost for HMPPS if the courts were to grant DAPOs with EM requirements. The current EM service uses Radio Frequency (RF) tags to monitor a curfew and satellite enabled location monitoring tags to monitor location i.e. exclusion zones or movements. Additionally, other technologies such as alcohol monitoring or proximity monitoring may become available in the future.

107. The impact of the express power on costs of EM to HMPPS will depend on the how much it is used and how the orders are managed and their associated impacts. We do not expect RF tags to be used in a domestic abuse context where the victim and perpetrator live together, therefore the proportion of electronically monitored curfews used in these circumstances is likely to be small, but they may be used where the perpetrator and victim do not live together, therefore we may find that for a DAPO the use of location monitoring to manage an exclusion zone or monitor movements is the larger proportion of orders.

Criminalising breach of DAPOs

108. Police: There may be some familiarisation costs for the police associated with the criminalisation of DAPO breaches. Given existing police knowledge of the DVPO process and the process for other protective orders where breach is already criminal (that is, non-molestation orders and restraining orders), and the lack of any studies to estimate time spent in processing an application for proceedings (once an instance of breach occurs) these impacts have not been monetised but are assumed to be minimal.

Scope widening only

109. LAA: An element of the process changes outlined in measure (c) will be the widening of application routes and incorporating non-physical domestic abuse, where the DVPO only

covered domestic violence. The DAPO will enable specified person or any person with the leave of court to apply for a protective order on the victim's behalf. There is work ongoing to determine which agencies could be specified to apply (which is expected to be resolved before the DAPO is piloted), however it is likely that there will be some costs to the LAA of accrediting certain organisations, ensuring their eligibility to apply on a victim's behalf and therefore secure LAA funding. The DAPO will also allow victims of non-physical domestic abuse to seek a protective order, which will likely increase the number of legal aid applications from victims of domestic abuse.

110. The widening of application routes could impact on the LAA if the granting of additional protective orders is accepted as evidence that an applicant has been affected by domestic abuse and is, therefore eligible for a LAA DV funding certificate. This certificate guarantees legal aid funding for applicants in future proceedings, and could, therefore increase costs to the LAA. The magnitude of these costs is not known, as protective injunctions are one of several means to proving eligibility for guaranteed funding.
111. There could also be additional resource costs associated with third party applicants applying for DAPOs, including applying for leave of court.

Benefits of Measure (c)

Monetised benefits

Process change

112. It has not been possible to monetise the process change benefits of this measure.

Scope widening

113. It has not been possible to monetise the scope widening benefits of this measure.

Non-monetised benefits

Process change

114. Victims and the justice system: The introduction of DAPOs will facilitate a more consistent response to domestic abuse from the justice system by offering a comprehensive and flexible order to deal with abusive behaviour. This may result in earlier and more effective intervention by justice system agencies, which may prevent the escalation of abuse and reduce revictimisation and reoffending.
115. Victims (confidence in the justice system): See overall non-monetised benefits.
116. Victims (reduction in prevalence of domestic abuse): The power described above will help to change perpetrator behaviour to reduce the prevalence of domestic abuse. There is some evidence that domestic abuse perpetrator programmes in England and Wales have led to a reduction in abuse. Following CARA perpetrator interventions, using the Cambridge Crime Harm Index, an evaluation⁶⁴ found that the severity of offences that perpetrators were arrested for after the intervention was 27 per cent lower than for those of perpetrators in the control group and the frequency of reoffending was 21 per cent lower in the treatment compared to the control group. An evaluation of two interventions delivered by the NPS (the Integrated Domestic Abuse Programme and the Community Domestic Violence Programme) indicated that both were effective in reducing domestic abuse and any reoffending in the two-year follow up period with small but significant effects⁶⁵. Any reductions in revictimisation

⁶⁴ <https://www.repository.cam.ac.uk/handle/1810/266887>

⁶⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449008/outcome-evaluation-idap-cdvp.pdf - DA reoffending across both programmes was on average 10.9 percentage points lower than the control group.

and reoffending could reduce emotional and physical costs to victims, their children and society.

117. Those living with, or close to, victims (specifically children witnessing domestic abuse): The 2017 Office for National Statistics (ONS) domestic abuse outcomes report⁶⁶ found that one in three (34 per cent) of those who witnessed domestic abuse as a child in their home were abused by a partner as an adult, and that this was much more likely than those who did not witness domestic abuse (11 per cent). Early intervention and programmes to change offender behaviour could potentially reduce the likelihood of children witnessing domestic abuse which may go on to reduce the likelihood of them subsequently being victims or perpetrators. This may reduce the emotional and physical costs to victims and society from domestic abuse.
118. Victims: It is possible that the criminalisation of breach could have a deterrent effect and reduce the incentive for the perpetrator to breach the order. However, without sufficient data or studies to date, there is little evidence to explore a breach deterrent effect.
119. Police: Possible benefits to the police may come from the reduced number of breach proceedings they bring forward upon criminalisation of breach if it acts as a deterrent. This potential resource saving for the police may offset the increased cost borne on the CPS, as described in paragraph 76.

Scope widening

120. Victims: The scope widening aspect of the measure could benefit victims by taking the onus off the victim to apply to the courts for an order, as the police, specified person or any other person with leave of court could do this on their behalf, thus reducing the time and pressure associated with legal proceedings. Although it should be noted that because the court is required to take the victim’s views into account before making a DAPO, victims may still choose to give evidence (in writing or orally) in some cases. The scope widening is also estimated to lead to more orders being granted because DAPOs can protect people from all forms of domestic abuse therefore, the number of people being protected will be greater. This has the potential to support and protect more victims than the ‘do nothing’ option, thus representing a bigger benefit to victims.

Net quantifiable impacts of Measure (c)

121. Table 1 summarises the net quantifiable impacts of the proposed protective orders measure for each agency, broken down by process change and scope widening impacts (and jurisdiction, where appropriate). These are annual costs for the full roll-out, not the pilot period. The overall estimated impacts associated with the measure are then summarised.

Table 1: Summary of estimated annual costs associated with the protective orders measure, by justice system agency (£m, 2019/20 prices)

CJS agency	Estimated economic cost from process change	Estimated economic cost from increase in scope (5%)	Estimated economic cost from increase in scope (10%)	Total
Police	0.9	2.3	12.7	3.2 - 13.6
CPS	0.5	0.7	1.0	1.2 - 1.4

⁶⁶ Office for National Statistics (2017) *People who were abused as children are more likely to be abused as an adult*. <http://visual.ons.gov.uk/people-who-were-abused-as-children-are-more-likely-to-be-abused-as-an-adult/>

HMCTS	1.3	2.7	3.9	4.0 - 5.2
LAA	1.0	3.5	5.9	4.4 - 6.9
HMPPS	4.4	3.3	4.5	7.7 - 8.9
Other	1.7	1.9	2.0	3.7 - 3.7
Total	9.8	14.4	30	24.2 – 39.8

Optimism Bias of 15 per cent included. HMPPS impacts include CRC payments. Figures may not sum due to rounding.

The estimated quantified net cost to society of this measure, assessed in isolation, is between £24.2 and £39.8 million per year after the pilot period, depending on the assumed increase in protective order applications. The estimated costs to the police of this measure have increased considerably since the January 2019 IA. This is due to including additional costs and updating existing estimates to take account of newly obtained data, as explained in the paragraphs above. The estimated present value cost (NPC) of this policy is £94 to £177 million (PV) over 10 years, assuming introduction in 2021/22.

(d) Extend extraterritorial jurisdiction (ETJ) over specified offences necessary for ratification of the Istanbul Convention

122. The potential impacts of measure (d) are likely to materialise in two areas. One being an increase in the number of cases being prosecuted. The second likely impact is training and familiarisation costs for the extension of ETJ to relevant offences.
123. The one-off training and familiarisation cost will likely be incurred by the police, CPS and judiciary. We expect these to be minimal as the extension of ETJ will apply to offences with which they are already familiar in the domestic context. Therefore, agencies should have the relevant guidance in place which could be applied to these cases.
124. A list of 14 offences in England and Wales, over which the Government believes it is necessary to take (or extend existing⁶⁷) ETJ has been used in this analysis. The relevant offences are: (1) putting people in fear of violence; (2) controlling or coercive behaviour in an intimate of family relationship; (3) stalking involving fear of violence or serious alarm or distress; (4) murder and manslaughter; (5) actual bodily harm; (6) grievous bodily harm, (7) grievous bodily harm with intent; (8) child destruction; (9) administering poison or noxious thing so as to endanger life or inflict grievous bodily harm; (10) administering poison or noxious thing with intent to injure, aggrieve or annoy another person; (11) rape, (12) assault by penetration; (13) sexual assault; and (14) causing a person to engage in sexual activity without consent.
125. Offences (1), (8), (9), and (10) have not been included in the analysis as they are not present in the data supplied by Prisoners Abroad⁶⁸. This should not impact the estimates as their lack of presence in the data suggests that few people are proceeded against for these types of offences abroad.

Costs of Measure (d)

⁶⁷ Section 9 of the Offences Against the Person Act 1861 and section 4 of the Suppression of Terrorism Act 1978, respectively, provide ETJ in all cases where murder or manslaughter is committed abroad by a UK national and in most cases where those offences are committed abroad by a person who is habitually resident in the UK. In respect of the offences at (11) to (14) above, section 72 of the Sexual Offences Act 2003 provides ETJ over those offences when committed by a UK national, and in certain cases a UK resident, where the victim was aged under 18 at the time of the offence.

⁶⁸ <https://www.prisonersabroad.org.uk/>

Monetised costs

126. Volumes are uncertain as cases involving ETJ are not recorded separately in Criminal Justice Statistics, and so it is unclear how many cases the UK currently deals with. For the purposes of this analysis, two data sets are used to estimate the volume of additional ETJ cases. One from the Foreign & Commonwealth Office's (FCO) "*Helping British Nationals Abroad*" publication⁶⁹ and a second supplied by the charity Prisoners Abroad (PA). Both have their limitations as set out in the 'Risks and Assumptions' section below.
127. According to the FCO's data, in 2015/16 there were approximately 4,500 non-drug related arrests/detentions of UK nationals where consular assistance was requested. To estimate the number of ETJ cases, several factors are applied to this number:
- Using PA's data, the proportion of offences, being sought under this extension of ETJ, as a proportion of all non-drug related cases abroad.
 - The likely proportion involving nationals from England and Wales⁷⁰.
 - The proportion of arrests which lead to court proceedings⁷¹.
128. Approximately 200 additional cases per year are estimated where ETJ could be exercised. In the absence of recorded data on cases involving ETJ, that estimate is based on the volume of the relevant offences committed in England and Wales. In practice, however, it is likely that only serious offences committed abroad by UK nationals or residents that cannot or should not be prosecuted where they occurred will be prosecuted in the UK, and so the actual volume is likely to be lower.
129. The number of cases within each type of offence is then multiplied by an estimated cost for that particular type of offence. Note that these costs are for an average domestic case, and do not incorporate additional costs that may arise due to the offence being committed overseas. For instance, cost associated with the extradition of the perpetrator or costs of police collaboration with local law enforcement agencies.
130. To estimate the impact on the CPS, a contest rate is applied to the estimated number of proceedings for each offence type. CPS modelling assumes that approximately 14 per cent of magistrates' courts and 19 per cent of Crown Court proceedings are contested. The CPS estimated costs based on their National Resource Model for each type of proceeding (based on unit costs for guilty plea and contested proceedings in the magistrates' courts and Crown Court).
131. For England and Wales, the additional cases are estimated to cost a total of £7.0 million per year. The 10-year NPC of this measure is £46 million. The actual cost may be lower as only the most serious cases are likely to be prosecuted in the UK, or higher if the average cost of these ETJ cases is greater than the average cost of domestic cases. The annual cost by agency is estimated⁷² at:
- HMCTS: £0.7 million.
 - CPS: £0.3 million.
 - LAA: £1.6 million.

⁶⁹ <https://www.gov.uk/government/statistical-data-sets/helping-british-nationals-abroad-2016>

⁷⁰ <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality>

⁷¹ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesbulletintables>

⁷² These are rounded numbers and so sums may not add to the total presented.

- HMPPS: £4.4 million, of which £4.1 million are prison costs⁷³ and £0.3 million are probation costs.
132. There is a cost to the Scottish criminal justice system from providing the courts with ETJ in respect of the offences covered by the Convention. The methodology for estimating these costs has been provided by Scottish Government and is detailed in the Annex. The total costs to the Crown Office and Procurator Fiscal Service (COPFS), Scottish Courts and Tribunals Service (SCTS) and Scottish Legal Aid Board (SLAB) are estimated at £333,200 per year, and the costs to the Scottish Prison Service are estimated at £400,000 per year. The overall annual cost to the Scottish criminal justice system is estimated at £0.7 million.
133. There is additionally a cost to the Northern Ireland criminal justice system but this has not been estimated as this cost is expected to be small.

Non-monetised costs

134. Due to the lack of relevant data, costs associated with transporting evidence, victims, witnesses and defendants to the UK, and police/prosecutors gathering evidence overseas have not been estimated. It is not clear which jurisdiction or agency will bear these costs - in some instances some may be borne by the authority in which the offence occurred.
135. Exercising ETJ may mean there are increased extraditions compared to the current volume. This process will also incur additional costs although there is uncertainty around their magnitude and to whom the costs will fall.
136. Prosecuting ETJ cases can be more complex than the average domestic case of that offence, and thus may require justice system resource over and above that required for prosecution of a typical domestic case. The scale of any uplift is currently unclear and so has not been applied, though this cost will be reflected to some extent by the 15% optimism bias that has been applied to this (and other) measures.

Benefits of Measure (d)

Monetised benefits

137. It has not been possible to monetise any benefits arising from this measure.

Non-monetised benefits

138. As required by the Istanbul Convention, this measure would provide that, in appropriate cases, UK nationals and residents who commit certain violent or sexual offences abroad may be brought to trial in the UK. In addition, ratifying the Istanbul Convention would enhance the UK's reputation as a world leader in tackling violence against women and domestic violence. This will further demonstrate the Government's commitment to eliminating such violence.

Net quantifiable impacts of Measure (d)

⁷³ It should be noted that prison costs do not account for any potential additional capital costs that might be associated any construction of new facilities.

139. Extending ETJ over relevant offences, as outlined above, is estimated to have a 10-year NPC from 2019/20 of £52 million (PV)⁷⁴.

(e) Domestic Violence Disclosure Scheme

140. The potential impacts of measure (e) are likely to affect only the police as a result of increased use of the DVDS scheme.

Costs of Measure (e)

Monetised costs

141. A small cost is expected as a result of additional demands on police time in responding to information requests and providing information where it is considered appropriate to do so.

142. Recent data on the use of the DVDS is published by the ONS⁷⁵. Data on the cost per request were published for Wiltshire police force in 2012/13 following the pilot assessment of the policy⁷⁶. Since the January 2019 IA, internal data from an additional five police forces has been used, to provide more up to date estimates. These estimates cover the resource costs to the police of providing information relating to an individual where there is a concern that the individual may be abusive towards their partner.⁷⁷

143. The cost estimates have been assumed to be representative of all forces. The unit costs below are used in the IA:

- £1,006 for each disclosure from the 'right to ask'⁷⁸ (where the police disclose information via a request from a member of the public)
- £789 for each disclosure from the 'right to know' (where a proactive decision is made to consider disclosing information in order to protect a potential victim)

144. ONS data shows that across all forces in England and Wales during the year to the end of March 2019 there were 7,252 (data from 36 forces) and 6,496 (data from 39 forces) applications under right to know and right to ask and there were 4,008 and 2,575 disclosures respectively. Consistent with the assumption made in the protective orders section, it is assumed that the policy leads to an increase in volumes between 5 and 10 per cent.

145. Including optimism bias of 15 per cent, multiplying the change in use by the cost to police gives an additional annual cost between £0.2 and £0.4 million. The estimated present value cost (NPC) of this policy is £1.3 to £2.6 million (PV) over 10 years, assuming introduction in 2021/22.

Non-monetised costs

146. This policy seeks to encourage the use of an existing scheme offered by all police forces in England and Wales, therefore there are unlikely to be any significant non-monetised costs. A small, one-off training and familiarisation cost could be incurred by the police if volumes

⁷⁴ The estimated NPC is calculated using 2018/19 as the base year, with implementation expected in April 2020 (in financial year 2020/21). Accordingly, the NPC is calculated over 10 years and incorporates 8 years of estimated costs.

⁷⁵ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseinenglandandwalesappendixables>

⁷⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260894/DVDS_assessment_report.pdf - Page 16.

⁷⁷ The assumed resources regarding decision making forums have been refined from the Domestic Abuse Bill Consultation Impact Assessment.

⁷⁸ <http://www.gmp.police.uk/content/section.html?readform&s=903BB34BE34EDA3180257A71002DE9EE> – Explanation of 'right to ask' and 'right to know'

increased considerably. This cost is expected to be negligible as the measure will apply to a scheme with which the police are already familiar.

Benefits of Measure (e)

Monetised benefits

147. It has not been possible to monetise any benefits arising from this measure.

Non-monetised benefits

148. The DVDS helps to ensure potential victims are provided with appropriate information about the risk their partner or ex-partner may pose. The purpose of DVDS is, therefore, to increase public safety and afford victims of domestic abuse better protection by helping them make a more informed decision on whether to continue a relationship. Improving and increasing police application of the scheme, through placing DVDS on a statutory footing, will provide greater protection to potential victims of domestic abuse.

Net quantifiable impacts of Measure (e)

149. The estimated present value cost (NPC) of this policy is £1.3 to £2.6 million (PV) over 10 years, and it is anticipated that this cost falls entirely to the police.

(f) To make provision in primary legislation for the prohibition of cross-examination in person in specified circumstances in family and civil proceedings, and to give courts the power to appoint advocates funded from central funds to undertake cross-examination in specified circumstances.

Costs of Measure (f)

Monetised Costs

150. By enabling the court to appoint publicly-funded legal representatives in these proceedings, we estimate that the steady-state cost to the MoJ will be approximately £5.2 to £7.9 million per year in England and Wales. This is based on an estimate of potential volumes, using family and civil court statistics, and views of legal and operational colleagues where other data is not available. The final fee scheme for the advocates undertaking cross-examination is yet to be determined, so for the purposes of this IA we have used the current final hearing legal aid fee paid to legal representatives in the relevant family proceedings as a proxy unit cost. To note, as details of implementation are to be finalised, these costs should be treated as indicative.

Non-Monetised Costs

151. It is expected that the costs of issuing guidance and informing stakeholders of its introduction will be negligible to the MoJ.

152. HMCTS will face administrative costs from this policy; communicating with the LAA and managing the process of confirming booking, cancelling if required and signing off the appearance of publicly funded representatives.

153. In order to ensure that there are enough legal representatives available to carry out cross-examination, the MoJ will need to establish a mechanism for sourcing and appointing legal representatives in an effective and timely manner. The MoJ will also need to determine who will lead on operating this mechanism. At present, it is not possible to currently quantify the

cost of setting up this mechanism as any additional costs for changes to departmental systems will depend on the final mechanism selected.

Benefits of Measure (f)

Monetised Benefits

Court Advocacy Service Providers

154. This will see a new revenue stream created for providers of legal representation. The total financial benefit to providers is estimated to be approximately £5.2 to 7.9 million per year, which is equal to the estimated cost of the measure to the MoJ.

Non-Monetised Benefits

Witnesses in family proceedings

155. The main benefit of measure (f) is that the court would have (in specified circumstances) the option to appoint a qualified legal representative to cross-examine vulnerable witnesses, or on behalf of vulnerable witnesses. This is likely to be less distressing for witnesses, and should improve the quality of evidence. Modelling indicates that approximately 11,000 to 16,000 instances per year could benefit from an appointed legal representative. This takes into account the number of hearings where there is likely to be cross-examination, and likely number of litigants in person. Additionally, these provisions may lead to judges and legal advisors less frequently having to be involved in conducting cross examination themselves. See also the general non monetised benefits set out in paragraphs 206 to 216.

Net quantifiable impacts of Measure (f)

156. Prohibiting the cross-examination of victims, as outlined above, is estimated to have a 10-year NPC from 2019/20 of £36.2 to 54.8 million (PV)⁷⁹.

(g) Mandatory polygraph examinations of high risk domestic abuse offenders on licence

Costs of Measure (g)

Monetised Costs

157. The pilot scheme will involve a treatment group of 300 high risk of harm on licence domestic abuse offenders, alongside a control group (who will not be polygraphed) of 300 high risk of harm on licence domestic abuse offenders.

158. The annual estimated costs associated with the set up and running of the pilot scheme are summarised in Table 6.

Table 2: Average annual costs associated with pilot scheme* (£'000s)

Costs incurred by NPS (HMPPS)	Average annual cost for the pilot scheme
Staff costs and recruitment	260
Training costs (including equipment)	70
Staff related costs	60
Other Costs	40
Evaluation cost	50
Total	480

*This is a three year pilot so the costs are divided by three, however the cost will fall across four financial years. Figures may not sum due to rounding.

159. The cost of running the three-year pilot is estimated at £0.5 million per year. The pilot has a 10-year NPC from 2019/20 of £1.5 million (PV). The estimated NPC is calculated using 2019/20 as the base year, with implementation expected in June 2020 (in financial year 2020/21). Accordingly, the NPC is calculated over 10 years and incorporates four years of estimated costs. It should be noted that while the costs of an initial pilot have been

⁷⁹ The estimated NPC is calculated using 2018/19 as the base year, with implementation expected in April 2020 (in financial year 2020/21). Accordingly, the NPC is calculated over 10 years and incorporates 8 years of estimated costs.

monetised, the costs of a potential full roll-out of the scheme have not been monetised for the purposes of this IA.

Non-monetised Costs

160. It has not been possible to identify any non-monetised costs associated with the initial pilot scheme. Similarly, no costs of a potential full roll-out have been monetised.

Benefits of Measure (g)

Monetised benefits

161. It has not been possible to identify any monetised benefits associated with this measure.

Non-monetised benefits

162. Non-monetised benefits of this measure will accrue if polygraphing of on licence domestic abuse perpetrators generates additional licence monitoring information that is used to improve risk management of on licence offenders.

163. The pilot should also provide additional evidence of the use of polygraphs for these offenders.

(h) Automatic eligibility of special measures in criminal court

164. Automatic eligibility for special measures removes the need for an adult domestic abuse victim to establish eligibility for special measures on grounds of fear and distress. It should be noted that eligibility will not always mean special measures are granted. Special measures are only granted if a judge believes the measures will improve the quality of evidence given.

165. Internal MoJ analysis has found that at present around 1 per cent of domestic abuse victims are already automatically eligible for special measures when attending court⁸⁰. Accordingly, no new costs will be generated by measure (h) when applied to this cohort. In addition, measure (h) will not generate new costs in the cases of individuals who, in the absence of automatic eligibility, will have applied for and been considered eligible for special measures.

166. Measure (h) will only generate new costs in the cases of individuals who, in the absence of automatic eligibility, will not have applied and been considered eligible for special measures. These cases will result in special measures being awarded where they will not have been previously. This will increase the total provision of special measures, and therefore will generate new costs to HMCTS.

167. It has not been possible to estimate the size of this cohort and as such no monetised costs associated with measure (h) have been estimated.

168. There is a detailed audit currently taking place looking at facilities in the family and criminal courts. This is to test that facilities in each building meet the Victims' Code obligations, the Witness Charter standards in criminal courts, the Vulnerable Court User protocol and Practice Direction 3AA in the family courts in order to assess any gaps in provision for vulnerable victims and witnesses. We will use this information to consider whether there are

⁸⁰ Due to being victims of sexual offences, for which victims are automatically assumed to qualify as intimidated and as such are eligible for special measures.

gaps in special measures and identify any additional costs associated with implementing this measure.

Costs of Measure (h)

Monetised costs

169. It has not been possible to monetise the costs associated with measure (h).

Non-monetised costs

Screening a witness from seeing the defendant

170. The costs to HMCTS associated with this measure are expected to be minimal.

Evidence given by live link

171. The costs to HMCTS associated with this measure are uncertain. At present most courts have the technological capacity to operate a video link due to the implementation of remote hearings for minor offences such as motoring or parking ticket offences but there may be costs of expanding its use. However, additional costs may fall on other entities such as the police (who may need to offer a video link from a police station) or rape support centres, where the victim does not wish to enter court.

Evidence given in private

172. The costs to HMCTS associated with this measure are expected to be minimal.

Removal of wigs and gowns

173. The costs to HMCTS associated with this measure are expected to be minimal.

Video recorded cross-examination and evidence

174. The costs to HMCTS associated with this measure are uncertain. Pre-recorded cross-examination may take place in a court room under the provisions of this bill, and so in theory could create additional costs for HMCTS.

175. Pre-recorded evidence is usually taken from the video recorded interview of the witness undertaken in accordance with Achieving Best Evidence guidance⁸¹. As such, this policy measure may impose additional costs on police forces.

176. Costs to the police with this measure are uncertain. Currently, for domestic abuse cases, police undertake a judgement based assessment when they decide whether or not to undertake a video recorded interview. If the automatic eligibility of special measures for domestic abuse victims increases, in turn leading to additional video recorded interviews being conducted, then there will be additional costs for the police.

Benefits of measure (h)

Monetised benefits

177. It has not been possible to monetise the benefits associated with measure (h).

Non-monetised benefits

178. The range of measures that domestic abuse victims will be made automatically eligible for will help to mitigate sources of stress faced when providing evidence. This should have

⁸¹ https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/best_evidence_in_criminal_proceedings.pdf

benefits for victims. It may also help victims of domestic abuse to offer better evidence, which in turn could result in improved justice outcomes. See also the general non monetised benefits set out in paragraphs 206 to 216.

179. In addition, the use of video recorded cross examination in the context of sexual offenders has been associated with an increase in early guilty pleas. The reduction in average trial length that this engendered resulted in a net saving for HMCTS. It is not clear whether this impact would also be found in cases of domestic abuse.

(i) Protect security of tenure for domestic abuse victims

180. The full details of the measure have previously been published in the Department for Communities and Local Governments 'Secure Tenancies (Victims of Domestic Abuse) Bill 2017-19: Note of impacts'.⁸²

(j) Introduce a statutory duty on tier one local authorities in England to support victims and their children in domestic abuse safe accommodation

181. The duty will be placed on tier one local authorities who will be required to bring together a domestic abuse local partnership board, work with the board to assess the need for domestic abuse support in safe accommodation in their area, develop and publish local strategies based on needs identified and monitor and evaluate the effectiveness of that strategy and give effect to that strategy in carrying out their functions. The duty will also place a requirement on tier two authorities to cooperate with lead authorities in exercising its duty.

182. The duty will promote a consistent approach to delivering support in safe accommodation, and increase accountability for this provision, ensuring that victims and their children get the support they need in safe accommodation. The support commissioned under this duty will be in dedicated specialist services which provide a safe place to stay for survivors and victims fleeing domestic abuse. The different types of safe accommodation will be specified in regulations, supported by statutory guidance.

183. Tier one local authorities, taking advice from the domestic abuse local partnership board, will decide what services should be commissioned locally. The types of support which could be commissioned under this duty will include (but not limited to):

- a. Overall management of services within safe accommodation – including, the management of staff, payroll, financial management of services and maintaining relationships with the local authority (such functions will often be undertaken by a service manager).
- b. Support with the day-to-day running of the service, for example scheduling times for counselling sessions, group activities etc.
- c. Advocacy support – development of personal safety plans, liaison with other services (for example, GPs and social workers, welfare benefit providers).
- d. Domestic abuse prevention advice – support to assist victims to recognise the signs of abusive relationships, to help them remain safe (including online), and to prevent re-victimisation.
- e. Specialist support for victims with protected characteristics and / or complex needs, for example, translators and interpreters, faith services, mental health advice and

⁸² <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsdomesticabuse/documents.html>

support, drug and alcohol advice and support, and immigration advice.

- f. Children's support – including play therapy and child advocacy.
- g. Housing-related support – providing housing-related advice and support, for example, securing a permanent home and advice on how to live safely and independently.
- h. Counselling and therapy for both adults and children, including emotional support.

Costs of Measure (j)

Monetised costs

184. The main monetised cost would be the cost to tier one local authorities of convening a local partnership board, conducting an assessment of need, producing a local strategy, commissioning and decommissioning services in line with the strategy, monitoring services, and reporting back to central Government. In addition, tier one authorities would incur costs associated with co-operating with tier one authorities in the fulfilment of that duty. The initial estimate of these costs is approximately £90 million per year. This estimate will be refined using a range of evidence ahead of the duty coming into force.

Benefits of Measure (j)

Monetised benefits

185. It has not been possible to monetise the benefits associated with this measure (j).

Non-monetised benefits

186. The Home Office report on the economic and social costs of domestic abuse⁸³ evidences the substantial costs associated with domestic abuse victimisation. The total costs of domestic abuse in England and Wales in 2016/17 were estimated at £66 billion, with the largest component arising from the physical and emotional harms incurred by victims (£47bn). This intervention is likely to reduce the costs of domestic abuse by preventing victimisation and supporting victims and their children in safe accommodation.⁸⁴

(k) To make provision in primary legislation for automatic eligibility for special measures in the civil and family courts.

Costs of Measure (k)

Monetised costs

187. It has not been possible to monetise the benefits associated with measure (k).

Non-monetised costs

188. The non-monetised costs of measure (k) are likely to be similar to the costs of special measures described in paragraphs 170 to 177 above.

⁸³ Oliver, R., Alexander, B., Roe, S. and Wlasny, M. (2019) *Economic and Social Cost of Domestic Abuse*. London: Home Office

⁸⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772180/horr107.pdf

Benefits of Measure (k)

Monetised benefits

189. It has not been possible to monetise the benefits associated with measure (k)

Non-monetised benefits

190. There is no data which allows for a reliable estimate of the number of witnesses or civil trials which will be effected by measure (k). Initial internal analysis by the MoJ indicates that between 1,000 to 3,000 civil trials per annum might be impacted. These are, however, preliminary estimates only and would require further analysis once the reforms are bedded in.

191. Making the a presumption of eligibility for special measures in civil and family proceedings will help vulnerable witnesses and respondents/applicants give their best evidence in court and help to relieve some of the stress associated with giving evidence. It will also ensure greater consistency in the eligibility for special measures between all three jurisdictions.

(l) Amend the Housing Act 1996 to give those who are homeless as a result of fleeing domestic abuse priority need for accommodation secured by the local authority

Costs of Measure (l)

Monetised costs

192. The cost of extending priority need to all eligible homeless victims of domestic abuse is dependent on the number of victims who reach the main duty stage of the homelessness assistance legislative pathway.

193. Under the outgoing rules on priority need, Local Authorities had to consider whether the applicant was “vulnerable” as a result of domestic abuse. The additional cost of extending priority need to all victims of domestic abuse therefore arises from the number of victims who were previously not owed the main housing duty, but who would be under this measure.

194. Using published statutory homelessness statistics¹ (HCLIC), we were able to estimate the increase in households owed the main duty as a result of this change. We used unpublished costs of Temporary Accommodation (TA) research to attach an annual net cost of accommodating the additional number of households who would be owed a main duty under this change. We use a net cost as a measure of the additional housing costs of TA placements relative to other types of accommodation. Uprating to 2019/20 and assuming that households stay in temporary accommodation for 1 year, we estimate that this would cost local authorities c. £8m per annum. Assuming costs to local authorities remain constant in real terms and using a 10-year time horizon suggests a present value cost of £66m.

195. This estimate does not represent a full new burdens assessment of the costs associated with this measure and should be treated as preliminary and subject to change. Due to the data available at the time of this analysis, the above cost is not inclusive of any changes in demand for homelessness services linked to the Covid-19 pandemic period. We will conduct a full new burdens assessment in consultation with Local Authorities at a later stage prior to implementation, which will inform the final costings.

Non-monetised costs

196. Local authorities undertake in-depth interviews with every homeless applicant to establish whether the household is legally homeless. As part of this, authorities may ask victims to outline the abuse they've experienced or can ask for a written statement to understand the level of risk to decide whether it is unreasonable for them to continue to occupy their current accommodation. Removing the vulnerability test for victims may cause local authorities to ask victims for more evidence to prove they are legally homeless as a result of fleeing domestic abuse. The amendment could have the perverse effect of more victims being found not homeless or intentionally homeless if there is not enough evidence that they are a victim. In this instance they would no longer be eligible for accommodation from the authority. We intend to mitigate this risk by updating the Homelessness Code of Guidance to further clarify how local authorities should seek to evidence whether someone is a victim of domestic abuse.
197. Homelessness legislation applies a vulnerability threshold to ensure that resources, including temporary accommodation (TA) and access to settled housing, are prioritised effectively and accommodation is there for people who need it most. By extending automatic priority need to all victims of domestic abuse, this will inevitably put additional pressure on authorities who have limited housing stock. Authorities must support a number of groups, including those who are vulnerable as a result of physical ill health, a disability and those with a history of mental health problems. This may result in longer waiting times for settled accommodation amongst those owed a housing duty by the local authority. We intend to mitigate this risk by undertaking a full new burdens assessment to provide the authorities with the funding to meet the additional cost of emergency accommodation whilst settled housing is obtained.

Benefits of Measure (l)

Monetised benefits

198. It has not been possible to identify any monetised benefits associated with this measure.

Non-monetised benefits

199. Accommodation security for victims seeking to flee abuse.
200. The Home Office report on the economic and social costs of domestic abuse evidences the substantial costs associated with domestic abuse victimisation. The total costs of domestic abuse in England and Wales in 2016/17 were estimated at £66 billion, with the largest component arising from the physical and emotional harms incurred by victims (£47bn). This intervention is likely to reduce the costs of domestic abuse by preventing victimisation and supporting victims and their children to flee abuse through an offer of accommodation by the local authority.

(m) Provide clarification that consent to serious harm for sexual gratification is not a defence in law

Costs of Measure (m)

Monetised costs

201. It has not been possible to identify any monetised benefits associated with this measure. Given the measure codifies a principle already set out in caselaw, it is unlikely to generate any additional costs.

Non-monetised costs

202. It has not been possible to identify any non-monetised benefits associated with this measure.

Benefits of Measure (m)

Monetised benefits

203. It has not been possible to identify any monetised benefits associated with this measure.

Non-monetised benefits

204. This measure would provide further clarity in the law in this area and address concerns that have been raised that offenders are using the so-called rough sex defence to escape justice or, where convicted, receive a reduction in sentence.

Measures (a) – (m): Overall non-monetised benefits

205. The critical aim of the set of measures presented in this IA is to reduce the prevalence of domestic abuse, and therefore the harm caused to society.

206. It is also possible that the set of measures will increase public trust in the justice system.

207. However, without available evidence on the impacts of these interventions (for instance impact evaluations on the effects of particular programmes or orders), it has not been possible to accurately monetise benefits associated with the above measures.

208. However, the following section of this IA will outline:

- a) Evidence relating to the potential harm and costs of domestic abuse.
- b) How the proposed measures may address these issues.
- c) An example of the estimated reduction in domestic abuse victims required to offset the cost of the measures.

Evidence relating to the potential harm and cost of domestic abuse

209. The following evidence may help to demonstrate the potential scale of the benefits if the policy measures are successful in reducing the harm associated with domestic abuse:

- Home Office research, *The Economic and Social Costs of Domestic Abuse* (Oliver et al. 2019)⁸⁵ updated to 2019/20 prices estimates domestic abuse to have cost £70 billion in England and Wales for the year ending March 2017⁸⁶. The main element of this cost is the physical and emotional harms borne by the victims themselves following their often prolonged and repeated period of abuse (£50 billion). Costs for each victim of domestic abuse is estimated to be approximately £36,000.
- The second highest cost estimated within this new research is the cost of lost output. As a result of the harm they have suffered, many may take time off work and be less

⁸⁵ Oliver, R., Alexander, B., Roe, S. and Wlasny, M. (2019) *Economic and Social Cost of Domestic Abuse*. London: Home Office

⁸⁶ This is likely to underestimate the complete costs of domestic abuse to England and Wales as the associated costs of children present in domestic abuse households has not been included.

productive following their return. The cost of this was estimated at £7.7 billion for domestic abuse victims.

- When abuse escalates, victims are more likely to require support from public services. Health and support services are particularly likely to experience demand for their services from victims. SafeLives report that between 10 per cent and 25 per cent of domestic abuse victims went to A&E in the year before they received effective help. Within the Economic and Social Costs of Domestic Abuse (Oliver et al., 2019) the cost to health services for victims of domestic abuse was estimated at £2.5 billion. Nearly 60 per cent of these costs are in relation to the emotional harms suffered highlighting the wider psychological and emotional costs above physical violence alone.
- There is also a body of literature which suggests children of victims of domestic abuse suffer from the life-long impact of the abuse leading them to be more likely to suffer from or perpetrate abuse in the future. Recent analysis of the Crime Survey for England and Wales showed that those who had witnessed domestic violence or abuse as a child (before aged 16) were more likely (than those who had not) to experience domestic abuse in the previous year as an adult (21 vs 5 per cent) and to experience sexual assault in the last year as an adult (5 per cent vs 2 per cent) (ONS, 2017)⁸⁷.

Mechanism through which the proposed measures are assumed to reduce harm

210. The rationale underpinning the proposed options is to increase awareness and earlier reporting of domestic abuse, and provide the justice system with the tools to better deal with these cases, thereby preventing some of the costs to the victim and society. The non-monetised benefit sections above outline how each measure aims to reduce the prevalence and harm associated with domestic abuse.

Estimated reduction in domestic abuse flagged crime required to offset the cost of the measures

211. Despite having insufficient evidence to monetise the potential benefits, it is known that in the Crime Survey for England and Wales for the year ending March 2019, an estimated 2.4 million adults aged 16 to 74 years experienced domestic abuse in the previous year⁸⁸. Given the estimated costs of domestic abuse were approximately £70 billion for victims of domestic abuse in the year ending March 2017 (Oliver et al., 2019) updated to 2019/20 prices, it will only take a very modest annual reduction in domestic abuse related crime for the estimated £137 million to £155 million annual cost of the policy measures to be offset by the potential benefits.
212. To demonstrate this, the physical and emotional unit costs for harms that domestic abuse victims suffer have been used from the Economic and Social Costs of Domestic Abuse. The unit cost for physical and emotional harm is estimated at £25,700. When the total costs included within this IA (£137 million to £155 million) are then divided by this unit cost, it is estimated that the total number of domestic abuse victims will need to be reduced by approximately 5,700 victims annually for the costs of these policies to be offset by the benefits from domestic abuse prevention to the victim. Using the number of domestic abuse victims, estimated by the ONS,⁸⁹ this represents a reduction in domestic abuse by approximately 0.2 per cent per year. By their nature, these benefits do not imply that the measures will be financially cost-neutral for the departments.

⁸⁷ Office for National Statistics (2017) *People who were abused as children are more likely to be abused as an adult*. <http://visual.ons.gov.uk/people-who-were-abused-as-children-are-more-likely-to-be-abused-as-an-adult/>

⁸⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseprevalenceandvictimcharacteristicsappendix> tables

⁸⁹ 2,385,000 domestic abuse victims within 2018/19

Summary and preferred option

213. The total quantified annual costs of Option 2 (excluding measure (i)) are estimated to be between £137 and £155 million per year in a steady state. The costs from the Bill over 10 years at present value are estimated to be between £884 and £1,005 million. The central estimate for this is £944 million. The estimated economic benefit of the policy is not monetised, as per the explanation above. The Net Present Social Value is -£944 million as there are no monetised benefits.
214. The analysis above does, however, show that only a very minor reduction (0.2% per year) in the prevalence of domestic abuse will be required for the benefits of Option 2 to outweigh the costs.
215. There are no costs and benefits expected on businesses from the measures of this Bill. Therefore, the EANDCB is zero.

Table 3: Summary of estimated annual costs by measure and justice system agency; and Present Value costs over 10 years by measure (£m, 2019/20 prices)

Agency	Domestic Abuse Bill measure										Total
	(a) Statutory DA definition	(b) Domestic abuse commissioner	(c) Protective orders	(d) Extend ETJ	(e) DVDS	(f) Cross examination	(g) Polygraph	(h) Special measures	(j) Local authority support services	(l) Priority need for the homeless	
HO/Police		1.15	3.2 – 13.6		0.2 - 0.4						4.5 to 15.1
HMCTS			4.0 – 5.2	0.7							4.7 to 5.9
CPS			1.2 – 1.4	0.3							1.5 to 1.7
LAA			4.4 – 6.9	1.6							6.0 to 8.5
HMPPS			7.7 – 8.9	4.4			0.5				12.6 to 13.8
Other			3.7								3.7
MoJ Central Funds						5.2-7.9					5.2 to 7.9
Local authorities									90	8	98
Scotland				0.7							0.7
Total	0.0	1.15	24.2 – 39.8	7.7	0.2 - 0.4	5.2 to 7.9	0.5	0.0	90	8	137 to 155
Total Present Value costs		9.9	94 to 177	52	1.3 to 2.6	36.2 to 54.8	1.5	0.0	619	66	884 to 1,005

HMPPS estimates include CRC payments. 15 per cent Optimism Bias applied. Excludes impacts of measure (i). Figures may not sum due to rounding.

F. Proportionality.

216. Given the costs involved and lack of data, a proportionate approach has been taken. Estimates are based on actual data on the relevant services as they stand today.

G. Risks.

217. The estimated cost and benefit impacts presented in this IA are based on a range of assumptions, some of which are uncertain. Consequently, each of the impacts estimated in this IA are subject to a degree of risk.
218. The following tables outlines those assumptions that, under current modelling, are assumed to drive impact to justice system partners; they are not intended to provide an exhaustive list of all modelling assumptions but to provide the reader with an overview of the most important assumptions, the risks surrounding these and a description of the possible impacts if this risk materialises.

Overarching Risks (including definition)	
Assumption	Risk and Impact
Data availability	Some of the measures analysed in this IA rely heavily on assumptions made in the absence of domestic abuse related data. A domestic abuse flag is not applied consistently throughout management information systems in the justice system, meaning it is difficult to get a thorough and complete understanding of the domestic abuse landscape from arrest through to offender management. In the absence of this data, assumptions have been made where required to inform some of the modelling work.
Optimism bias	A 15 per cent optimism bias has been applied to all quantified costs.
Definition – scope widening	Proposed changes to the definition of domestic abuse will not bring any new offences into scope but it is unknown to what extent the change in definition could alter the scope of behaviour that could be prosecuted under existing offences (notably stalking, harassment and controlling or coercive behaviour offences). If, for instance, the widening of the definition leads to incidents of economic abuse being included in prosecutions, justice system costs could increase.

Measure (b) – create the role of Domestic Abuse Commissioner	
Assumption	Risk and Impact
Resource requirement	If the resource requirement for the Domestic Abuse Commissioner is greater than assumed, for example an office consisting of more than the assumed 10-12 staff or at higher grades, then the estimated cost of this measure could be higher than presented in this IA.

Measure (c) – Protection Orders	
Assumption	Risk and Impact
Policy Implementation	The estimates provided in this IA rely on the new domestic abuse protection order framework being used in response to all domestic abuse cases for which this intervention has been considered appropriate. However, if practitioners such as the police continue to use the existing framework then the impacts could differ to those presented in this IA.
Increased demand to the justice system	It is possible that the increased demand to the justice system, in terms of more applications for protective orders, and/or criminal or civil proceedings flowing from breaches of the order, could be greater than anticipated in the modelling. If there is an annual increase in applications beyond the assumed 5 to 10 per cent range, the impact estimates presented in this IA could be an underestimate.

Lack of evidence on current use of perpetrator programmes and EM	The lack of information on the volume of perpetrator programmes attached to domestic abuse related protective orders and application of EM as a condition pose a risk that the analysis may be an under or over estimate, as it has been difficult to establish a baseline, and therefore understand aspects of the 'do nothing' approach. Without properly understanding the baseline usage, or the behaviour change anticipated as a result of the measure, the modelling has assumed a zero-usage baseline, and therefore the percentages shown in the assumptions relating to take up can be interpreted as percentage point increases. More detail on assumptions for each of these is provided below.
Proportion of existing protective orders that are assumed to be related to domestic abuse (and mapping from 'current' to 'proposed' framework)	<p>Modelling has assumed approximately 4,400 DAPNs granted (replacing the previous DVPN).</p> <p>Modelling assumes 32,300 DAPOs annually granted in a civil context (based on the 2016 volumes of DVPOs, non-molestation orders, occupation orders and on the 2015 volume of restraining orders granted on acquittal).</p> <p>Modelling assumes 20,700 DAPOs annually granted in the criminal court on conviction of an offence (based on the 2015 volume of restraining orders granted on conviction). However, DAPOs may also be made on acquittal.</p> <p>Proportion of these orders that are domestic abuse specific – volumes above are based on the following:</p> <ul style="list-style-type: none"> • 100 per cent of DVPOs are domestic violence specific • 95 per cent of non-molestation and occupation orders are domestic violence specific • 86 per cent of restraining orders are domestic violence specific
Perpetrator programmes as an order condition	Modelling assumes 30 per cent of offenders would have a positive requirement attached to their domestic abuse protection order, with 100 per cent of these being perpetrator programmes. If the proportion of perpetrators with a positive requirement attached is higher (lower) than assumed the cost could be higher (lower) than estimated in this IA.
Perpetrator programme costs	Modelling assumes a cost of perpetrator programmes based on the costs of the CARA programme. If higher cost perpetrator programmes are provided there will be additional costs.
EM costs not modelled	Modelling for the estimated number of EM requirements as order conditions, along with their associated costs, has not been produced. This will likely mean that costs associated with additional protection order conditions have been understated as the estimate of total EM costs is not included. Some DAPOs will indeed have EM conditions attached and as such carry cost implications for HMCTS and any other organisations involved in monitoring compliance, and further work will be undertaken to model these costs.
DAPO breach rate	Assumed breach rates for the new DAPOs are based on the historic breach rates for existing protective orders. If the breach rate is higher (lower) than this the cost could be higher (lower) than estimated in this IA. This impact is driven by the measure to criminalise breach of DAPOs.
Police breach costs	Modelling has estimated the police actions following a breach based on those that were undertaken within the DVPO evaluation. These are actions for a civil contempt of court and do not necessarily reflect the actions needed for a criminal breach of protection orders. The costs included may under or over estimate the associated breach police costs.

Proportion of DAPO breaches resulting in criminal proceedings	It is conservatively assumed that 100 per cent of the expected 1,800 DAPO breaches newly eligible for criminal proceedings will result in criminal proceedings. DAPO applicants may opt instead to bring civil contempt of court proceedings (for instance, to prevent loss of financial support from an abusive partner resulting from lost employment due to a criminal conviction). Therefore, the proportion of expected DAPO breaches resulting in criminal proceedings may be lower than 100 per cent. If this is the case, costs associated with breach criminalisation are likely to be lower than those modelled for HMCTS, CPS, LAA and HMPPS.
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Measure (d) – Extend extraterritorial jurisdiction	
Assumptions	Risks and Impacts
Data sources	<p><i>Both</i>: The quality assurance process that the below datasets have been through is unknown. Links to the data sources are provided in footnotes 76 and 77.</p> <p><i>British Behaviour Abroad</i>: Does not present offence-specific data (although likely has greater coverage than the Prisoners Abroad data). It does not distinguish between offenders from different parts of the UK.</p> <p><i>Prisoners Abroad</i>: Relies on self-reporting so is unlikely to be a comprehensive reflection of the extent of offending by British nationals. It does not distinguish between different parts of the UK.</p>
Difference in costs of overseas investigations relative to domestically committed offences	The costs of overseas investigation, co-operation with overseas authorities and possible extradition are very uncertain and may well be higher than costs of prosecuting a domestic offence. As such, costs associated with the extension of ETJ may be higher than those estimated. Similarly, it is assumed that attrition from arrest to proceeding for cases identified abroad will be similar to that for domestic cases. If it is in fact different, this could also impact on total cost.
Volume estimate	The volume of cases over which ETJ will be exercised is highly uncertain (as explained in the appraisal section). There is insufficient data on the extent of offending in foreign jurisdictions.
Volume estimate Data coverage	<p>There are circumstances where cases could be reported in the UK rather than in a foreign jurisdiction (for example, by a victim's family after returning from a holiday). Again, we do not have any data on the number of cases where existing ETJ provision has been exercised.</p> <p>Prisoners Abroad and FCO data only cover British nationals detained overseas (with some exceptions). As ETJ will apply to both residents and nationals the data proportions and volume estimates could be different to what is estimated.</p>

Measure (e) – Domestic Violence Disclosure Scheme	
Assumptions	Risks and Impacts
Data sources	<i>Unit cost of police time</i> – This is based on data reported by one force (Wiltshire) in 2012/13 so is unlikely to be representative of all 43 forces in 2018/19. Although the cost of police time has been adjusted to the 2015/16 level the time taken by police may have fallen since the introduction as forces become more used to the scheme.
Volume estimate	The increase in volumes is assumed to be between 5 to 10 per cent, but a larger increase could lead to greater costs to police and greater benefits to victims.

Measure (f) – Prohibiting cross-examination of victims by domestic abuse perpetrators	
Assumptions	Risks and Impacts
Data sources	<p>For the family jurisdiction, our analysis takes data on the volume of private family law proceedings which are categorised as either an application for a domestic violence remedy, or a child arrangements or a financial remedy case where harm is alleged. The figures used are estimates only, as the data may include some cases where there is harm alleged but no advocate is required, or may omit some cases where no harm is alleged but an advocate is required.</p> <p>Our analysis then applies to the volume of cases with harm alleged a series of evidenced assumptions to determine the likely volume of cases where a publicly-funded legal representative may be appointed to cross-examine a vulnerable witness, or on behalf of a vulnerable witness.</p> <p>For the civil jurisdiction, various assumptions were made concerning the number of hearings where a vulnerable witness was likely to be subject to cross examination.</p> <p>For both jurisdictions, the volume is multiplied by legal aid final hearing fees currently paid to legal representatives in the relevant family proceedings as a rough proxy cost, as the final fee scheme is yet to be determined.</p>
Types of proceedings	<p>Although the provisions will apply in all proceedings in the family courts, this analysis only costs the provisions for private law proceedings. It is assumed that most parties in public law proceedings will have legal representation, and that therefore the appointment of an advocate will be most commonly used in private law proceedings where parties are representing themselves.</p> <p>Likewise, for the civil jurisdiction, the provisions will apply in all case types. However, given the wide variety of case types, certain assumptions needed to be made concerning those where a vulnerable witness would be most likely to face cross examination (e.g., claims concerning personal injury arising from abuse).</p>
Volumes of cases	It is assumed that the volume of family and civil law proceedings, and the proportion involving vulnerable witnesses, will remain constant.
Final and factfinding hearings	It is assumed that cross examination will only occur in factfinding hearings and final hearings, and that the proportion of cases with these hearing types will remain constant.
Proportion of unrepresented respondents	It is assumed that the proportion of unrepresented parties will remain constant.
Admin costs	Admin costs for LAA and HMCTS will be dependent on the appointment process and payment mechanism
Legal aid fee uncertainty	Uncertainty over how and when legal representatives will be paid means that it is difficult to assess when the full cost of the policy to the MoJ would be realised. A legal aid fee is used as a proxy in these calculations but it may not be the fee that will be used in practice, as the advocate fee scheme is still to be decided.

Measure (j) – Introduce a statutory duty on tier one local authorities in England to provide support services to domestic abuse victims and their children in safe accommodation	
	Risks and Impacts

Overall cost estimate	Cost estimates at this stage are highly uncertain and will depend on the volume of domestic abuse victims.
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Measure (l) – Amend the Housing Act 1996 to give those who are homeless as a result of fleeing domestic abuse priority need for accommodation secured by the local authority.	
	<i>Risks and Impacts</i>
Overall cost estimate	Cost estimates at this stage are highly uncertain and will depend on the volume of domestic abuse victims who seek homelessness assistance.
Caseload risks	Covid-19 may change the demand for homelessness services of victims of domestic abuse. Acute homelessness pressures may affect the extent to which accommodation can be secured through the prevention/relief duty where this is owed; this in turn may increase the number of homeless domestic abuse victims who reach the main duty decision stage and therefore owed the main duty.
Behavioural change	Behavioural changes arising from this measure which leads to a change in the number of victims coming forward for homelessness assistance may lead to a change in the total costs associated with this measure.
Unit cost	Both Covid-19 and other structural changes may impact on the average cost of temporary accommodation, this in turn would directly impact the total cost of this measure.

Measure (m) – Provide clarification that consent to serious harm for sexual gratification is not a defence in law	
	<i>Impacts</i>
Behavioural change	In clarifying the current law in this area, this should ensure that defendants are aware that any claims they make which state that their victim consented to serious harm or harm which resulted in their death as part of sadomasochistic sexual activity, is not recognised as a defence in law. In future, this may lead to fewer claims being made.

H. Direct costs and benefits to business calculations

219. There are no costs and benefits expected on businesses.

I. Wider impacts

Equality considerations

220. An equality statement has been published separately⁹⁰.

Family impact considerations

221. It is hoped that the overall impact of the measures on families will be to promote safe, non-abusive relationships between family members. This could be achieved by increasing disincentives to engage in abusive behaviour, through early intervention (through greater DVDS use), by helping perpetrators to reform their behaviour (for instance, by attending a

⁹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772188/Draft_Domestic_Abuse_Bill_-_Policy_Equality_Statement.pdf

programme as a condition of a DAPO), and by affording greater protections to DA victims (for instance, by preventing abusive partners to cross-examine their victims).

J. Trade Impact.

222. There are no expected impacts on trade and investment.

K. Implementation date, monitoring and evaluation, enforcement principles.

223. The Bill provides for the substantive provisions to be brought into force by Commencement Regulations/Orders made by the Secretary of State (that is, the Home Secretary, Secretary of State for Justice or Secretary of State for Housing, Communities and Local Government, as the case may be), Scottish Ministers or the Department of Justice in Northern Ireland, as appropriate. Provisions are also made for the measures relating to domestic abuse prevention notices/orders and polygraph testing to be piloted before being rolled out across England and Wales. Further announcements about the timing of implementation will be made in due course following Royal Assent.

224. The Government will review and monitor measures following implementation. In the normal way the Act will be subject to post-legislative scrutiny five years after Royal Assent.

L. Annex 1 – Costs of Scottish ETJ cases.

225. Due to a lack of relevant data, it is not possible to definitively estimate the impact on the Scottish justice system of providing the courts with ETJ in respect of the offences covered by the Convention.
226. The UK Government has used data from the Foreign and Commonwealth Office on arrests/detentions of UK nationals where consular assistance was requested and from the charity 'Prisoners Abroad' to estimate the number of additional cases where ETJ could be exercised. They estimate that there will be approximately 200 additional cases per year at a total cost of £6.8 million. Proceeding on the assumption that approximately 10 per cent of these cases will involve an offender who is resident in Scotland, the cost to the Scottish criminal justice system will be approximately £680,000 per year resulting from 20 additional cases per year. The slightly more detailed analysis below produces an estimated annual cost of £733,000. However, the costs arising from extension of ETJ are highly sensitive to the proportion of these cases which will be tried in the High Court, and the proportion resulting in the imposition of a custodial sentence, both of which are very difficult to estimate.
227. It should be noted these estimates do not take into account those offences which are not reported to foreign authorities but are instead reported to the home jurisdiction upon return e.g. when the complainant returns home from a holiday abroad. The numbers could therefore be greater than estimated. However, while there may be up to 200 cases where ETJ could be exercised in the UK, and up to 20 cases where ETJ could be exercised in Scotland, only the most serious cases are likely to be prosecuted in the UK courts and therefore the actual number of cases and costs are likely to be lower.
228. Additional costs will fall on the Crown Office and Procurator Fiscal Service (COPFS), Scottish Courts and Tribunals Service (SCTS) and Scottish Legal Aid Board (SLAB) as a result of these additional cases. It is anticipated that the costs for the SCTS and SLAB will be in line with the cost of trials relating to offences committed in Scotland. However, for COPFS, there will also be additional costs as a result of: a) training (minimal); b) obtaining evidence from abroad; c) seeking concurrence from foreign authorities; d) transporting witnesses from abroad.
229. The average costs of a court case to COPFS, (excluding costs specifically associated with offences committed abroad), SCTS and SLAB are as follows :
- Sheriff Summary: £1,452
 - Sheriff & Jury: £8,086
 - High Court: £93,071
230. Fewer than 1 per cent of all cases heard in the Scottish Courts in 2017/18 were tried in the High Court. However, the cost of any additional High Court cases arising from the extension of ETJ is disproportionately higher and some of the offences over which ETJ is being taken, including rape and sexual assault by penetration, either must be tried in the High Court or are more likely to be. For illustrative purposes, if the extension of ETJ were to result in an additional five High Court cases per annum, the cost to the COPFS, SCTS and SLAB is estimated at £292,730 per year . If there were also to be an additional five cases heard in the Sheriff Court before a jury, the estimated cost to the COPFS, SCTS and SLAB is £40,430. If it then assumed that the remaining 10 additional cases capable of being prosecuted as a result of the extension of ETJ would, had they been committed in Scotland, been tried under summary procedure, then given that it is anticipated only the most serious

cases committed outwith Scotland will be tried in Scotland's courts, these will not be prosecuted. The total additional cost to COPFS, SCTS and SLAB is therefore estimated at £333,160 per annum.

231. There are also likely to be additional costs for the Scottish Prison Service (SPS) arising out of the extension of ETJ to those offences covered by the Convention. It is difficult to accurately estimate what these costs will be. The average notional 'unit' cost of a prison place in Scotland in 2017/18 was £38,903. The additional cost to the SPS will depend on the number of additional cases tried in the Scottish Courts, the proportion of those resulting in the conviction of the accused, the proportion of those cases in which the courts impose a custodial sentence and the average length of custodial sentence imposed.
232. The UK Government estimate that the average cost of additional prison places in England and Wales will be £4.3 million per year. In the absence of available data, an estimate of £430,000 per year in additional costs to the SPS is considered reasonable, though in the first years after the provisions are commenced, that cost is likely to be lower as the cost of prisoners serving sentences of more than 12 months will build over time.
233. In view of the considerable uncertainty, monitoring the number of additional cases that arise after the extraterritorial provisions of the Bill come into effect will be prudent to accurately assess the financial impacts.