

<b>Title: Strengthening the Law on Domestic Abuse</b>  <b>IA No: HO0160</b> <b>Lead department or agency: Home Office</b>  <b>Other departments or agencies:</b> Ministry of Justice, Crown Prosecution Service, Her Majesty's Courts and Tribunal Service, Legal Aid Agency, National Offender Management Service.	<b>Impact Assessment (IA)</b>	
	<b>Date:</b> 28/11/2014	
	<b>Stage:</b> Final	
	<b>Source of intervention:</b> Domestic	
	<b>Type of measure:</b> Primary	
<b>Contact for enquiries:</b> Safeguarding and Vulnerable People Unit, Home Office		
<b>Summary: Intervention and Options</b>		<b>RPC Opinion:</b> N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
-£119.1m	£0m	£0m	No	NA

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

Her Majesty's Inspectorate of Constabulary report that over one million calls were made to the police regarding domestic abuse incidents last year. These calls range from people seeking advice for themselves, or on another's behalf, to directly reporting abuse. Crown Prosecution Service figures indicate that in 2013/14 78,000 prosecutions were brought. This is the highest number of prosecutions ever recorded, yet it shows there is still work to be done. This figure falls short of the best estimates of the prevalence of domestic abuse, implying too many perpetrators are being undetected in intimidating those closest to them. In March 2013, the Government expanded its definition of domestic abuse to capture non-violent coercive and controlling behaviour in recognition of the serious and damaging nature of such abuse. Existing offences under the Protection from Harassment Act 1997, which criminalise a course of conduct, can sometimes be used to prosecute cases of non-violent domestic abuse. However, this legislation does not address the controlling dynamics of an abusive intimate relationship, and case law means that stalking and harassment legislation is not always applicable to non-violent abuse in an intimate partner relationship. Creating a new offence to cover the gap in the law relating to a pattern of abuse in a relationship should bring significant benefits in terms of public protection and reducing health and criminal justice costs from a reduction in domestic abuse.

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

The main objective of the policy is to ensure the legislative framework covers all domestic abuse, in particular controlling and coercive behaviour, in intimate relationships. This is so that the public understand and recognise that domestic abuse, including coercive and controlling behaviour, is illegal and perpetrators are brought to justice. The intended effect is more reporting of domestic abuse, more prosecutions, a reduction in the number of repeat victims and ultimately a reduction in domestic abuse.

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

Options considered:

Option 1 - Do Nothing

Option 2 - Introduce new legislation to criminalise patterns of coercive and controlling conduct perpetrated within intimate and family relationships.

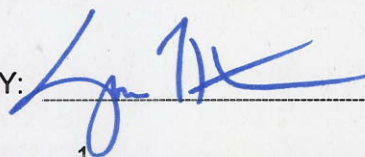
The Government is currently driving a culture change in the policing of domestic abuse; however, this work will not cover the gap in the law around patterns of non-violent abusive behaviour in relationships. Responses from the consultation conducted into this favoured legislating to strengthen the law. 85% of respondents reported the current framework did not provide adequate protection; Of these 65% were in favour of closing this gap through a new specific offence. Therefore, Option 2 is the preferred option.

**Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2016**

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: N/A		Non-traded: N/A

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

Signed by the responsible SELECT SIGNATORY:



Date:

7/1/15



# Summary: Analysis & Evidence

## Policy Option 2

Description: Introduce new legislation to criminalise patterns of coercive and controlling conduct perpetrated within intimate and family relationships

### FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -164.4	High: -75.6	Best Estimate: -119.1

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			19.1	164.4
High			8.8	75.6
Best Estimate		NK	13.8	119.1

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

- Annual cost to the police from additional investigations of £2.2 million
- Annual cost to the Criminal Justice System (CJS) from additional proceedings of £11.6 million. This breaks down as £1.8m to the CPS, £1.6m to HMCTS, £0.9m to the Legal Aid Agency and £7.3 million to the National Offender Management Service.

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

- There are transition costs to the police and other CJS agencies from adapting IT infrastructure and from training.
- There will be indirect costs to the domestic violence services sector, which will have to deal with an increase in referrals to outreach services and refuge services.

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

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

- Break-even analysis suggests that domestic abuse would have to reduce by 0.09% in order for the benefits of the policy to offset the costs. This is equivalent to preventing around 1,500 domestic abuse incidents, which is approximately 1% of the coercive control offences that are not reported to the police.

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

- Frontline services may be able to intervene earlier and more effectively with victims, which may prevent the abuse from escalating into physical and/or sexual abuse and reduce the number of repeat victims. This would provide benefits to housing services, health services and the CJS.
- The offence may provide the police and prosecutors with a clearer framework for tackling domestic abuse, which may reduce the time spent investigating the case.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
-------------------------------------	-------------------	-----

#### Assumptions

- The estimate for the increase in reporting of coercive control is based on qualitative feedback from the consultation. There is a large degree of uncertainty attached to it.
- The number of unreported coercive control incidents is not known. If this is higher than estimated in the IA, then there may be additional costs to the police and the CJS.

#### Risks

- There is a small risk that victims will be reluctant to subject their partners and intimate family to the CJS and so reporting may actually reduce.

### BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	N/A

# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Background

1. Tackling all forms of violence against women and girls, including domestic abuse, has been a key priority for this Government. The strategy for tackling domestic abuse is set out in 'A Call to End Violence against Women and Girls'<sup>1</sup>. Each year, a refreshed action plan has been published to deliver against this strategy. This has led to a range of interventions to improve the response to domestic abuse.
2. In recognition that domestic abuse often features subversive exertion of power and control, in March 2013 the non-statutory definition of domestic violence and abuse was extended to include coercive and controlling behaviour. Explicitly identifying the non-physical manifestations of domestic abuse helped raise understanding of the subtleties of abusive intimate relationships amongst the public and frontline agencies, including the police.

3. The Government defines domestic abuse as:

*“any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality.”*

4. The behaviour captured in this definition includes:

*“...a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim”.*

#### HMIC Review into the police response to domestic abuse

5. In September 2013, the Home Secretary commissioned Her Majesty's Inspectorate of Constabulary (HMIC) to undertake a comprehensive review of how the police deal with these crimes and in March this year HMIC published their findings<sup>2</sup>. The review highlighted the available evidence regarding the identity of domestic abuse victims, and made clear that anyone can experience domestic abuse regardless of their gender, ethnicity, religion, sexuality, class, age or disability.
6. The HMIC report also exposed significant failings, including a lack of visible police leadership and direction, poor victim care and deficiencies in basic policing. The report identified that police practice in using the current law is inadequate. Some findings were highlighted: the arrest rate varied from 45 per cent to 90 per cent across the 43 police forces in England and Wales. Vital evidence was also missed, for example photographs of injuries were taken in less than half of the actual bodily harm cases reviewed. These findings suggest that police officers failed to see domestic abuse as a serious crime.
7. In response to the findings, there are numerous work strands being undertaken to drive a culture change in the policing of domestic abuse. For example, chief constables have published action plans on domestic abuse, and a new National Oversight Group has been established, which is chaired by the Home Secretary. However, in addition to operational improvements, it is important that the police have the tools they need to provide the best possible protection to victims. There is now an understanding that domestic abuse is not just about physical violence and that coercive and controlling behaviour, although it can be harder to recognise, can have an equally devastating impact on its victims.

---

<sup>1</sup> 'A Call to End Violence Against Women and Girls: Action Plan 2014' <https://www.gov.uk/government/collections/ending-violence-against-women-and-girls-action-plans>

<sup>2</sup> 'Everyone's Business: Improving the Police Response to Domestic Abuse' <http://www.hmic.gov.uk/publication/improving-the-police-response-to-domestic-abuse/>

8. Between August and October, the Government ran an eight week consultation to ask whether the law needs to be strengthened to keep pace with these developments. The majority of respondents to the consultation were in favour of legislating to strengthen the law on domestic abuse, particularly in relation to coercive and controlling behaviour within an intimate partnership. We received over 757 responses with 85% reporting that the current legal framework does not provide adequate protection to victims. We have listened carefully to experts, particularly the Law Reform Campaign led by Women's Aid, Paladin and the Sara Charlton Foundation, who tell us that there is a gap in the law relating to patterns of coercive and controlling conduct perpetrated within intimate relationships. 55% of consultation respondents were in favour of closing this gap through a new specific offence.

## **A.2 Groups Affected**

9. Main affected groups are:

- Victims of domestic abuse who do not currently report the abuse, and may be encouraged to come forward; or who seek to access the criminal justice system and may receive a better response;
- Perpetrators of domestic abuse who may re-think their behaviour;
- The police who may have to conduct additional investigations;
- Ministry of Justice:
  - HMCTS and CPS (who will also require training on any strengthening of the law relating to domestic abuse);
  - Legal Aid Agency; and
  - National Offender Management Service (NOMS), who will need to manage people convicted of domestic abuse offences, covering both prison and probation costs; and
- Charities supporting victims of domestic abuse, who may receive increased referrals due to an enhanced awareness of domestic abuse (in particular, non-violent forms of domestic abuse).

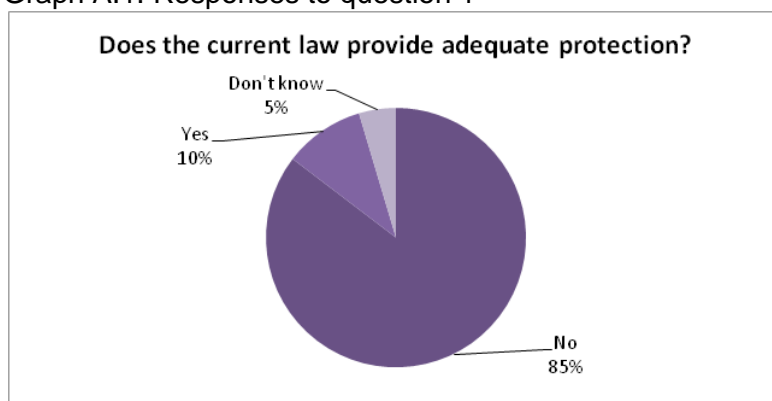
## **A.3 Consultation**

10. A public consultation was run between 20 August and 15 October. There were 757 responses, of which 75% were classified as members of the public<sup>3</sup>, 13% were victims, 5% were service providers, 4% were charities, 3% were professional bodies and 1% were academics. The responses to each question are given below:

### **Responses to Question 1: Does the current law provide adequate protection to victims of domestic abuse?**

11. The 85% that responded 'no' can be considered to be broadly in favour of strengthening the law. The 10% that responded 'yes' believe the current law is adequate. Graph A.1 shows the breakdown of responses.

Graph A.1: Responses to question 1

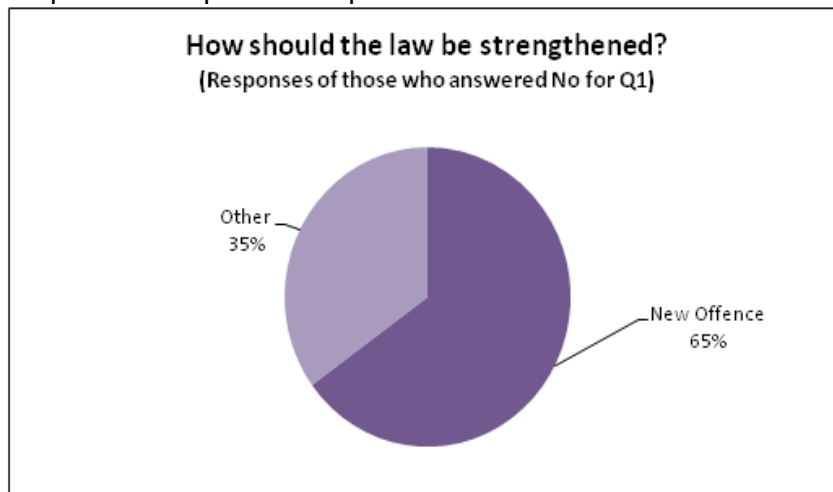


<sup>3</sup> If a respondent did not identify themselves they were identified as a member of the public

### Responses to Question 2: How should the law be strengthened?

12. Not all those who said the law needs to be strengthened were in favour of a new offence. 65% of the 85% of respondents who felt the law needed to be strengthened supported the introduction of a new offence (55% of total responses). Graph A.2 shows the breakdown of responses.

Graph A.2: Responses to question 2



13. The most common alternative suggestions for strengthening the law related to increased service provision, duties on the police to improve their response and increased access to legal aid.

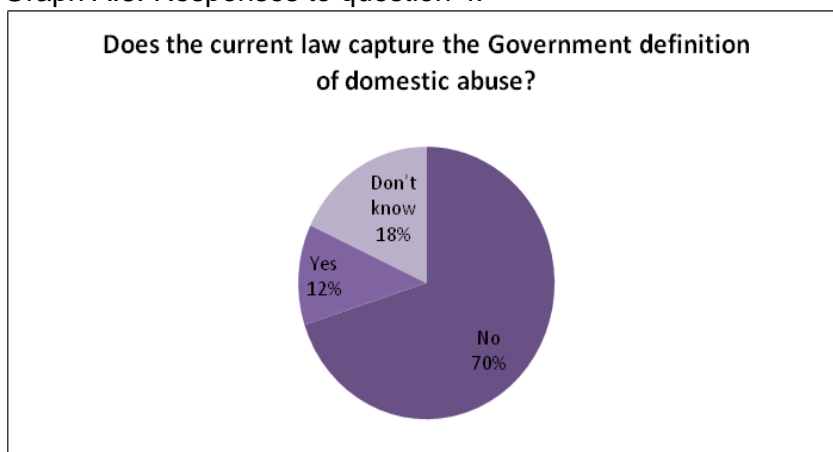
### Responses to Question 3: How would changes be implemented?

14. Question 3 called for a 'free text' response to record ideas for implementing legal change. The most common recommendations for implementation focused on training for frontline agencies, improving the police response and multi-agency working to deliver the support victims need to report their abuse. We recognise that these are critical limbs of the response to domestic abuse. We already have work in train to address these issues, but we will need to consider adjustments to this work to take account of the implementation of a new offence in due course.

### Responses to Question 4: Does the current law capture the Government's definition of domestic abuse?

15. Text responses accompanying the 'drop down' answer to this question suggest that some respondents misunderstood what was being asked and answered instead whether the current Government definition of domestic abuse is adequate. This may have impacted on the responses recorded in this chart. Nevertheless, the overwhelming majority felt that the Government's definition of domestic abuse, which captures patterns or coercive and controlling behaviour, is not adequately covered by the current law. Graph A.3 shows these responses.

Graph A.3: Responses to question 4.



## B. Rationale

16. There have been some measurable improvements in recent years that indicate victims are safer and more perpetrators are being brought to justice. The Crime Survey for England and Wales reports that the number of victims reporting the domestic abuse they have suffered to the police has increased and the latest figures released by the Crown Prosecution Service (CPS) show that the number of domestic abuse cases being referred by the police for prosecution is at a record high (103,569 cases in the last year). Conviction rates also show that more perpetrators are being convicted for their crimes (conviction rates have increased from 59.7% to 74.6% between 2005/6 and 2013/14<sup>4</sup>). In addition, the Home Office Homicide Index (2012/13) shows that the number of women killed by a partner or ex-partner in the last year was 76 - the lowest it has been in over a decade.
17. Although there has been an increase in reporting, domestic abuse is still under-reported. Evidence from the 2012/13 Crime Survey for England and Wales suggest that only 21% of people who have been a victim of partner abuse reported this to the police<sup>5</sup>. The reasons for this under-reporting are complex. Some victims fear the consequences of coming forward, and so do not report. In addition, evidence from the HMIC report suggests that domestic abuse (particularly non-violent forms of domestic abuse such as coercive and controlling behaviour) is not fully recognised nor understood by the police and public.
18. Stalking and harassment legislation does not capture the dynamics of an intimate controlling relationship. In cases heard under section 2A(3) of the Protection from Harassment Act 1997, the behaviours tested in court applied more logically to non-cohabiting partners, ex-partners, or strangers (e.g. following a person, contacting them by any means, loitering in any place, watching/spying etc), and were not necessarily typical of cohabiting ongoing relationships where the partners are in regular contact. For example, in *R v Curtis* (2010) the Court of Appeal concluded that harassment law was not always applicable to an intimate partner relationship where domestic abuse was present. In the judgment, Lord Justice Pill stated, "*The spontaneous outbursts of ill-temper and bad behaviour, with aggression on both sides, which are the hallmarks of the present case, interspersed as those outbursts were with considerable periods of affectionate life, cannot be described as such a course of conduct.*"
19. This has set the precedent in other cases such as *R v Widdows* (2011) where it was said that "*the section is not normally appropriate for use as a means of criminalising conduct, not charged as violence, during incidents in a long and predominantly affectionate relationship in which both parties persisted and wanted to continue...Description of a number of acts of violence spread over nine months during a close and affectionate relationship does not satisfy the course of conduct requirement or the requirement that it is conduct amounting to harassment.*"
20. As some respondents to the consultation pointed out, the law on stalking and harassment is not designed to capture the dynamic of sinister exploitation of an intimate relationship to control another, particularly where a relationship is ongoing. The element of control is not such a feature of stalking or harassment, which is generally intended to intimidate or cause fear. Domestic abuse adds an extra layer to such intimidation, with perpetrators relying on the fact that they are a close relation or partner to conceal their abuse, and safe in the presumption that the victim is likely to want to continue a relationship despite the abuse. For these reasons, domestic abuse may be said to be more subversive than stalking.
21. It is government policy to ensure that all agencies, particularly the police, should have the tools they need to tackle domestic abuse, to bring perpetrators to justice and to enable victims to rebuild their lives. Current statute and case law limits the extent to which enforcement agencies (police/ CPS) may see the stalking legislation as an appropriate tool, fit for domestic abuse cases involving cohabiting ongoing relationships. Existing offences under the Protection from Harassment Act 1997, which criminalises a course of conduct, are used to prosecute cases of non-violent domestic abuse. However, this legislation does not address the controlling dynamics

---

<sup>4</sup> [http://www.cps.gov.uk/publications/docs/cps\\_vawq\\_report\\_2014.pdf](http://www.cps.gov.uk/publications/docs/cps_vawq_report_2014.pdf)

<sup>5</sup> [http://www.ons.gov.uk/ons/dcp171776\\_352362.pdf](http://www.ons.gov.uk/ons/dcp171776_352362.pdf)

of an abusive intimate relationship, and case law suggests that stalking and harassment legislation is not always applicable to non-violent abuse in an intimate partner relationship.

22. Legislating for a new offence will cover a gap in the current legal framework relating to non-violent abuse perpetrated in an intimate relationship. Early intervention, initiated by the new offence where the public understand and recognise the full extent of domestic abuse, can also prevent longer-term escalation into severe violence or even homicide.

## C. Objectives

23. The main objective of the policy is to ensure the legislative framework covers all domestic abuse, in particular controlling and coercive behaviour, in intimate relationships, whether partner or family. This is so that the public understand and recognise that domestic abuse, including coercive and controlling behaviour, is illegal. The intended effect is that this will lead to more reporting of domestic abuse by victims and police, more successful prosecutions, and long-term savings to society through reduced health and social care costs.
24. The overarching objective is to help reduce levels of domestic abuse.

## D. Options

25. Two options have been considered, one of which is Do Nothing:

### **Option 1 - Do Nothing**

26. Under this option non-violent abuse will continue to be prosecuted in the existing way. A range of existing offences capture the spectrum of behaviours set out in the Government definition of domestic abuse and these are most effectively set out in Crown Prosecution Service guidance for prosecutors<sup>6</sup>.

### **Violent Abuse**

27. Violence in a domestic context is clearly criminal through offences that apply equally in a non-domestic setting, including common assault, battery, assault occasioning actual bodily harm, wounding with intent to cause grievous bodily harm, sexual assault and rape. According to HMIC, 96,000 'assault with injury' crimes reported in the last year were domestic abuse related, amounting to a third of all such crimes reported.

### **Non-violent Abuse**

28. Common assault can extend to non-physical violence where there is a threat of imminent violence. Non-violent coercive and controlling behaviour is also captured by legislation that covers stalking and harassment but this does not explicitly apply to coercive and controlling behaviour in intimate relationships.
29. Although coercive and controlling behaviour is not explicitly applied to behaviour in intimate relationships, reporting and prosecutions are still taking place:
- HMIC recorded 27,300 domestic abuse-related harassment crimes reported to the police in the twelve months prior to August 2013, accounting for 49% of all such crimes reported.
  - CPS data shows that in 2013-14 there were 5,247 offences flagged as domestic violence charged under Section 2 Protection from Harassment Act (PHA) 1997 - course of conduct amounting to harassment - compared with 4,217 in 2012-13<sup>7</sup>.

---

<sup>6</sup> <http://www.cps.gov.uk/publications/prosecution/domestic/domv.html#a20>

<sup>7</sup> [http://www.cps.gov.uk/publications/docs/cps\\_vawg\\_report\\_2014.pdf](http://www.cps.gov.uk/publications/docs/cps_vawg_report_2014.pdf)

- In 2013-14 there were 952 offences flagged as domestic violence charged under Section 4 PHA 1997 – putting people in fear of violence - compared with 775 in 2012-13<sup>8</sup>.
30. Nevertheless, the Government definition on domestic abuse, which extends to non-violent forms of domestic abuse including coercive and controlling behaviour, is not captured explicitly in legislation, which may lead to ambiguity in terms of what domestic abuse is and how it can be prosecuted. Therefore, there may be scope to increase the reporting of these offences through increased training and awareness of how the current legal framework can be used to prosecute domestic abuse offences.
  31. Under this option, we will also continue to implement the recommendations set out in the report by HMIC on the police response to domestic abuse published in March 2014. The HMIC report identified that police practice in using the current law is inadequate. HMIC highlighted failures in leadership that meant strategic vision to prosecute perpetrators and protect victims was not being realised in frontline policing; although domestic abuse is a feature of most Police and Crime Commissioner (PCC) Crime Plans, this does not translate to operational priorities in police forces and officers delivering good practice are not consistently recognised or rewarded. HMIC also identified a frontline culture in which domestic abuse is often not regarded as a serious crime.
  32. The Home Secretary is leading work to drive this culture change in the policing of domestic abuse. Immediately after HMIC published its report she wrote to all chief constables making it clear that every police force must have an action plan for improvement in place by September 2014. To make sure change happens, the Home Secretary also chairs a new National Oversight Group to drive the eleven recommendations arising from the HMIC report.

**Option 2 - Introduce new legislation to criminalise patterns of coercive and controlling conduct perpetrated within intimate and family relationships**

33. There is evidence from partners and the HMIC report that although there are existing offences capable of being applied to the new definition domestic abuse, a gap in the law exists relating to patterns of coercive and controlling conduct perpetrated within intimate relationships and family members.
34. We are proposing an amendment to the Serious Crime Bill that explicitly criminalises continuous or repeated coercive and controlling behaviour where it is perpetrated against an intimate partner or family member. Like stalking, this behaviour may appear innocent, but the cumulative impact on the victim's every-day life will be significant, causing the victim to feel fear, alarm or distress. The emphasis will be on the control that those in abusive intimate relationships (both partners and families) experience. The draft framework of the offence is proposed below.

*Draft Framework*

35. Subject to Parliamentary Counsel advice, the framework for the offence is likely to be along the following lines:
  - (1) A person (A) commits an offence if—
    - (a) A repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive,
    - (b) at the time of the behaviour, A and B are personally connected,
    - (c) the behaviour has a serious effect on B, and
    - (d) A knows or ought to know that the behaviour will have a serious effect on B.
  - (2) A and B are “personally connected” if—
    - (a) A is in an intimate personal relationship with B, or
    - (b) A and B live together and—
      - (i) they are members of the same family, or
      - (ii) they have previously been in an intimate personal relationship with each other.

<sup>8</sup> [http://www.cps.gov.uk/publications/docs/cps\\_vawg\\_report\\_2014.pdf](http://www.cps.gov.uk/publications/docs/cps_vawg_report_2014.pdf)



- (3) But A does not commit an offence under this section if at the time of the behaviour in question—
- (a) A and B are personally connected by virtue of subsection (2)(b)(i),
  - (b) A is a parent of B or has parental responsibility for B, and
  - (c) B is under 16.
- (4) A's behaviour has a "serious effect" on B if—
- (a) it causes B to fear, on at least two occasions, that violence will be used against B, or
  - (b) it causes B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities.
- (5) For the purposes of subsection (1)(d) A "ought to know" that which a reasonable person in possession of the same information would know.
- (6) For the purposes of subsection (2)(b)(i) A and B are members of the same family if—
- (a) they are, or have been, married to each other;
  - (b) they are, or have been, civil partners of each other;
  - (c) they are relatives;
  - (d) they have agreed to marry one another (whether or not the agreement has been terminated);
  - (e) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
  - (f) they are both parents of the same child;
  - (g) they have, or have had, parental responsibility for the same child.
- (7) In this section—
- "civil partnership agreement" has the meaning given by section 73 of the Civil Partnership Act 2004;
  - "child" means a person under the age of 18 years;
  - "parental responsibility" has the same meaning as in the Children Act 1989;
  - "relative" has the meaning given by section 63(1) of the Family Law Act 1996.
- (8) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both.

## **E. Appraisal (Costs and Benefits)**

### **General Data and Assumptions**

#### **Monte Carlo Simulation**

36. The method used to estimate the average annual cost to the main affected groups of Option 2, and the uncertainty around these estimates, is called Monte Carlo simulation. Monte Carlo simulation is a technique that presents both the range, as well as the expected value, of the collective impact of various assumptions, and is useful when there are many variables with uncertainty<sup>9</sup>.
37. Monte Carlo simulation involves replacing a single estimate with a range of values, which allows us to create a more realistic picture of the potential impact of Option 2 in the future. The technique lets you define a minimum value, maximum value and most likely value for each assumption.

---

<sup>9</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220541/green\\_book\\_complete.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf)

38. In a Monte Carlo simulation, a random value is selected for each of the assumptions, based on the range of estimates provided. The model is then calculated based on these random values. The result of the model is recorded, and the process is repeated. Monte Carlo simulation calculates the model 10,000 times, each time using different randomly selected values for the assumptions. When the simulation is complete, we have a large number of results from the model, each based on random input values. These results are used to describe the likelihood, or probability, of reaching various outcomes in the model.
39. In this appraisal we specify a range of estimates for the number of investigations undertaken by the police, the number of cases proceeded against in court and the cost of a police investigation. The output of the simulation provides the range of average annual costs to the police and each criminal justice system agency. Our best estimate is assumed to be the median of this range, with the lower bound assumed to be the 90% confidence interval and the upper bound the 10% confidence interval. The maximum, minimum and most likely values for each assumption are explained below.

#### Increase in reporting

40. The consultation received 95 responses from victims. Forty three of the responses specifically said that an offence would have given them better protection, and six said that they would have reported the abuse but did not previously. Therefore, the most likely estimate of the increase in reporting expected from introducing this offence is 6%. This increase is only related to coercive control offences and not to violent domestic abuse as the law is not changing with regard to the latter. Annex A shows how this figure is applied to the volume of non-recorded crime to obtain estimates for the additional number of investigations and proceedings each year.
41. There are a number of caveats related to this figure, which provide a range of uncertainty around the most likely estimate:
- The estimate is based on a small sample and may not be representative for the whole population.
  - There may be a selection bias with the victims filling out the survey.
  - It is not possible to know whether all victims that responded to the consultation were victims of coercive control or whether they already reported being a victim of domestic violence. This is because the consultation did not ask for this in the consultation responses. If some of the victims responding to the consultation already reported incidents of coercive control then this would increase the proportion of people that did not previously report coercive control but would now<sup>10</sup>.
42. To account for this uncertainty we apply +/- four percentage point range to the central estimate to come up with an upper and lower bound. Therefore, for our Monte Carlo simulation the following range is assumed:
- Most likely percentage increase in reporting - 6%
  - Maximum percentage increase in reporting - 10%
  - Minimum percentage increase in reporting - 2%

#### *Number of additional police investigations*

43. There are currently no police recorded crime figures for the number of coercive control offences, but data from the HMIC report<sup>11</sup> suggests that forces recorded approximately 27,000 harassment crimes with a domestic abuse flag in 2012/13. In this appraisal it is assumed that harassment incidents proxy for coercive control incidents. This could overestimate the number of investigations of coercive control if harassment includes violence<sup>12</sup>, but could underestimate the number of investigations if harassment crimes do not fully cover the scope of the new offence.

<sup>10</sup> For example, if ten people would have reported coercive control to the police in the Do Nothing situation then the proportion of victims that didn't report but would now report would actually be 6/85 or rather than 6/95, and the increase in reporting will be higher than that estimated.

<sup>11</sup> <https://www.justiceinspectorates.gov.uk/hmic/publication/improving-the-police-response-to-domestic-abuse/>

<sup>12</sup> Harassment can in principle include specific incidents of violence.

44. The Co-ordinated Action against Domestic Abuse (CAADA) Insights dataset estimates that in cases where victims had experienced 'only' coercive control, 17% of victims called the police<sup>13</sup>. This suggests that over 80% of coercive control offences are not reported to the police. If 27,000 harassment incidents are recorded and this makes up 17% of incidents then the remaining 83% or approximately 130,000 incidents are not reported each year<sup>14</sup>.
45. It is expected that there will be a transfer from the current offences to the new domestic abuse offence, as the police may start to record offences under the new domestic abuse offence rather than harassment. Since this is a transfer from one offence to another the additional number of investigations will remain unchanged.
46. Using the increase in reporting in paragraph 42 we estimate the following number of additional investigations for the police:
- Most likely estimate - 8,400
  - Maximum number of additional investigations - 13,700
  - Minimum number of additional investigations - 3,100

*Number of additional cases proceeded against*

47. The number of defendants that were proceeded against in the magistrates' court in relation to non-violent domestic abuse in 2013 is estimated to be 11,425<sup>15</sup>, and table E.1 shows the breakdown of these proceedings. The majority of these proceedings are expected to be proceeded against under the new coercive control offence. This will not impact on the number of additional proceedings the CJS deal with, as it is a transfer from one offence to another. However, there may be an additional burden on the CJS if the new offence has a longer maximum sentence and costs more per case on average compared to the existing offence.

Table E.1 - The volume of defendants that were proceeded against in 2013<sup>16,17</sup>

<b>Legislation and relevant section</b>	<b>Offence type</b>	<b>Proceeded against in magistrates' court in 2013</b>
<b>S.42A of Family Law Act 1996</b>	Breach of non-molestation order	2,777
<b>S.4 of Protection from Harassment Act 1997</b>	Putting people in fear of violence	1,040
<b>S.4A(1)(a)(b)(ii) of Protection from Harassment Act 1997</b>	Stalking involving serious alarm/distress	99
<b>S.4A(1)(a)(b)(i) of Protection from Harassment Act 1997</b>	Stalking involving fear of violence	55
<b>S.5 of Protection from Harassment Act 1997</b>	Breach of a Restraining Order	7,219
<b>SS.5A(2) &amp; 5(5) &amp; (6) of Protection from Harassment Act 1997</b>	Breach of a Restraining Order issued on acquittal	235
<b>Total</b>		<b>11,425</b>

<sup>13</sup> This is based on the CAADA Insights dataset, which looked at 7,154 cases of domestic violence, in which victims who experienced only coercive control accounted for 43% of all cases.

<sup>14</sup>  $27,263 / 17\% = 1,588 * 83\% = 133,108$  not reported incidents

<sup>15</sup> Ministry of Justice internal analysis

<sup>16</sup> The figures given in the table on court proceedings relate to persons for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

<sup>17</sup> The data held centrally by the Ministry of Justice court proceedings do not specifically identify whether the conviction was on grounds of religious hatred or sexual orientation under this particular legislation. The number of cases presented in the above Table follows a manual review of court cases files that the centrally held data indicated may be relevant and, as such is subject to human error. It is also important to note that these centrally held data used to indicate potentially relevant cases have been extracted from large administrative data systems. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

48. We also expect there to be an increase in the number of proceedings that the CJS face due to an increase in reporting by victims. Paragraph 6 shows the range of additional investigations we expect the police to carry out each year and data from the HMIC report shows that 27% of crimes with a domestic abuse flag are charged and proceeded against. Applying this 27% to the number of additional investigations, we estimate the following range for the number of additional cases proceeded against:

- Most likely number of additional proceedings - 2,300
- Maximum number of additional proceedings - 3,700
- Minimum number of additional proceedings - 800

#### Cost of an investigation

49. The length of an investigation will vary depending on a number of factors, including the severity of the case and how long it takes to get to the scene. An investigation will involve call handling despatch, getting to the scene and dealing with the victim/the suspect at the scene. The College of Policing suggest that domestic violence cases are time consuming in nature, as you need to build a rapport with the victim and there may be language barriers, re-housing needs and mental health problems that would prolong proceedings. Because of these complex factors there is no existing data on the average length of an investigation for coercive control domestic abuse offences. However, we have attempted to estimate a range using best judgement of non-crime and crime domestic abuse incidents.

50. Our minimum estimate assumes an investigation time of three hours for one police officer, which is based on the length of time the College of Policing believe a non-crime incident could take<sup>18</sup>. Using the hourly cost of a police officer of rank sergeant and below<sup>19</sup>, £37, the minimum cost for an investigation is assumed to be £110.

51. The maximum estimate assumes that an investigation will take 12 hours of one officer's time. This is again based on what the College of Policing believe a domestic violence crime incident could take. Therefore, we estimate the upper bound cost of an investigation to be £438.

52. The most likely estimate assumes the mid-point of this range (7.5 hours or approximately one day), which is a cost of £274 per investigation. The range is summarised below:

- Most likely estimate - £274
- Minimum cost of an investigation - £110
- Maximum cost of an investigation - £438

#### Criminal Justice System (CJS) Costs<sup>20</sup>

53. A proxy offence similar in nature to the proposed new offence and with same maximum custodial sentence of five years for a conviction on indictment was used to estimate the progression of cases through the CJS. The proxy offence used was putting people in fear of violence, which comes under Section 4 of the Protection from Harassment Act 1997<sup>21</sup>.

54. It is estimated that a prosecution under the new offence could cost the CJS £5,000<sup>22</sup> per defendant. The breakdown of these costs for the different CJS agencies is provided below and a full outline of assumptions is provided at Annex B. This is a weighted average cost per case, based on all proceedings through the CJS system, so the costs will vary between proceedings<sup>23</sup>:

---

<sup>18</sup> This is based on best judgement and may not be representative for the country

<sup>19</sup> These are hourly costs in 2013 prices and take into account standard data on pay, hours, expenses, pensions, National Insurance contributions and police workforce statistics.

<sup>20</sup> All CJS costs are courtesy of MOJ internal analysis

<sup>21</sup> <http://www.legislation.gov.uk/ukpga/1997/40/section/4>

<sup>22</sup> Rounded to the nearest £1,000 and in 2013/14 prices.

<sup>23</sup> The following weighted costs to CJS agencies are rounded to the nearest £100 and are in 2013/14 prices.



- It is estimated that the cost to the CPS would be approximately £800 per case.<sup>24</sup>
- It is estimated that costs to HMCTS would be approximately £700 per case.
- Costs to the Legal Aid Agency (LAA) are estimated to be approximately £400 per defendant.
- The estimated prison costs are approximately £2,200 per defendant. This is based on the assumption that offenders receiving a custodial sentence would be given an average custodial sentence length of ten months, and that they would serve half their custodial sentence.
- The estimated total probation costs are approximately £1,000 per defendant. This is a weighted cost which accounts for probation given as a disposal for community orders and suspended sentence orders etc. It does not include post-release probation costs as the assumed custodial sentence length is less than 12 months.
  - We have based our estimates on current practice. However, the Offender Rehabilitation Act 2014 includes provisions to introduce post release licence conditions for offenders given a custodial sentence of less than 12 months.
  - After the commencement of these provisions, there will be costs associated with post release licence for offenders convicted of this offence who are sentenced to immediate custody.

55. No range is applied to these estimates and so they are assumed constant in the Monte Carlo simulation.

### **OPTION 1 - Do Nothing**

56. There are no associated additional costs and benefits with this option.

### **OPTION 2 – Introduce new legislation to criminalise patterns of coercive and controlling conduct perpetrated within intimate and family relationships**

#### **COSTS**

##### Transition costs

##### *Criminal Justice System*

57. The police have indicated that there would be transition costs from adapting IT infrastructure and from training. The training would be for every level of the organisation from call handlers to specialist officers, file handlers or CPS liaisons. This will be an opportunity cost to police time - the value of police time being taken up that cannot then be spent on other productive activities. It is also assumed that the CPS will face similar training costs, and the courts and the judiciary may face familiarisation costs. Police forces and the College of Policing have been approached to provide input on the transition costs but have been unable to provide any robust estimates. Therefore, these costs have not been monetised

##### *Charities*

58. It is assumed that transition costs to charities are negligible. Women's Aid suggests that training costs would not be very high because the domestic violence voluntary sector already understands coercive control and its impact.

##### Ongoing costs

##### *Police and Criminal Justice System (CJS) agencies*

59. Table E.2 shows the inputs to the Monte Carlo simulation. The unit costs to the CJS are assumed to be constant, while all other assumptions are presented as a range.

Table E.2 - Assumptions used in Monte Carlo simulation

<sup>24</sup> CPS and HMCTS costs are estimated on a per case basis, assuming a single defendant per case.

	<i>Most Likely</i>	<i>Minimum</i>	<i>Maximum</i>
% increase in reporting	6%	2%	10%
Number of investigations	8,407	3,082	13,731
Number of proceedings	2,270	832	3,707
Cost of an investigation	£110	£274	£438
Cost to the Crown Prosecution Service per proceeding	£800	£800	£800
Cost to HMCTS per proceeding	£700	£700	£700
Cost to Legal Aid Agency per proceeding	£400	£400	£400
Cost to HM Prisons per proceeding	£2,200	£2,200	£2,200
Cost to Probation Service per proceeding	£1,000	£1,000	£1,000

60. Detailed results of the Monte Carlo simulation are presented in Annex C; however, Table E.3 presents the average annual cost to each CJS agency and to the police. The cost to the police is because of an additional number of investigations and the costs to the CJS agencies are from additional proceedings.

Table E.3 - The annual cost to the police and CJS agencies<sup>25</sup>

	<i>Best estimate</i>	<i>Upper bound</i>	<i>Lower bound</i>
<b>Police</b>	£2,230,000	£1,270,000	£3,450,000
<b>CPS</b>	£1,820,000	£1,180,000	£2,450,000
<b>HMCTS</b>	£1,590,000	£1,030,000	£2,150,000
<b>Legal Aid Agency</b>	£910,000	£589,000	£1,230,000
<b>HM Prisons</b>	£5,010,000	£3,240,000	£6,750,000
<b>Probation Service</b>	£2,280,000	£1,470,000	£3,070,000
<b>Total</b>	£13,840,000	£8,779,000	£19,100,000

61. Table E.3 shows the estimated annual cost to each agency. We estimate an average annual cost of between £1.3 million and £3.5 million to the police, with a best estimate of £2.2 million. We also estimate an average cost to CJS agencies of between £7.5 million and £15.7 million, with a central estimate of £11.6 million. This also translates as approximately 180 extra prison places per year. **This gives a total average annual cost of between £8.8 million and £19.1 million, with a central estimate of £13.8 million.**

62. Table E.4 shows the total cost over ten years in present values for the police and the CJS. We estimate a ten year cost to the police (in present values) of between £11.0 million and £29.7 million, with a central estimate of £19.2 million. We also estimate a ten year cost to the CJS (in present values) of between £62.9 million and £138.0 million, with a central estimate of £99.6 million. **This gives a total cost over ten years in present values of between £75.6 million and £164.4 million, with a central estimate of £119.1 million.**

Table E.4 - The ten year cost in present values to the police and CJS agencies

	<i>Best estimate</i>	<i>Upper bound</i>	<i>Lower bound</i>
<b>Police</b>	£19,200,000	£11,000,000	£29,700,000
<b>CPS</b>	£15,700,000	£10,100,000	£21,100,000
<b>HMCTS</b>	£13,700,000	£8,870,000	£18,500,000
<b>Legal Aid Agency</b>	£7,840,000	£5,070,000	£10,600,000
<b>HM Prisons</b>	£43,100,000	£27,900,000	£58,100,000
<b>Probation Service</b>	£19,600,000	£12,700,000	£26,400,000
<b>Total</b>	£119,140,000	£75,640,000	£164,400,000

<sup>25</sup> The best estimate is assumed to be the median (or 50% confidence interval), the upper bound is assumed to be the 10% confidence interval and the lower bound is assumed to be the 90% confidence interval.

63. We envisage that the impact to front-line service providers could be three-fold:

- It is possible that an increase in reporting will have an impact on domestic violence services where police locally make referrals to services. An increase in reporting may lead to an increase in referrals to services. The police are not mandated to refer cases to domestic violence services and so any costs imposed on the voluntary sector would be indirect.
- The domestic violence services sector may also receive additional referrals directly from victims. Victims of coercive control may now understand that coercive control is illegal but not be willing to report their partner to the police. They may instead choose to access outreach or refuge services provided by the domestic violence services sector.
- It is also possible that recognition of a coercive or controlling conduct (caused by the new offence) may encourage victims to engage with service-providers at an earlier stage of the abuse than they might otherwise have done. This would mean that there may be an increase in the number of referrals in the short term but in the long term this number may fall.

64. We have not been able to estimate the increase in referrals that we expect the domestic violence sector to receive or the average cost of a referral to domestic violence services, and therefore the costs to this sector are non-monetised. However, we do present the potential scale of referrals that these services deal with.

65. We know that Women's Aid supported 82,517 women in outreach services and 9,599 women in refuge services over 185 different organisations in 2013<sup>26</sup>. Furthermore, CAADA Insights dataset estimates that from a sample of 7,000 cases 43% had no physical violence present<sup>27</sup>. From this we calculate that Women's Aid supported approximately 35,000 women in outreach services and 4,000 women in refuge services where physical violence was not present. Due to the nature of the impact of this policy being indirect and the lack of existing literature it is not possible to estimate the expected increase of cases that the specialist sector will deal with.

66. There is also a lack of data and literature on the average cost of a referral to domestic violence services. Women's Aid suggest that casework support could be up to six months but varies between victims, and on top of that there may be counselling and ongoing groups needed for those with specialist needs such as women with immigration issues, learning difficulties or mental health issues. This variation between victims makes it difficult to estimate the average cost per victim. Women's Aid were consulted, but were unable to provide any further clarity due to this high variation.

67. Estimating the cost of a refuge service is also a challenge. Walby (2004) estimated the average weekly rent for five refuges to be £418.72<sup>28</sup>. However, the average stay in a refuge varies hugely between victims<sup>29</sup> and so the overall cost per referral to refuge services is not quantified. Women can stay in a refuge for anything from one week to over one year and it again depends on their needs and the availability of housing to move in to. As with outreach services Women's Aid were consulted but were not able to provide an estimate for the average cost per referral.

## **BENEFITS**

68. It has not been possible to monetise benefits related with this option, because of a lack of existing data or literature to enable us to quantify the expected crime reduction benefits from introducing the new offence. Instead we present non-monetised benefits and use break-even analysis to show how much domestic violence would need to reduce by in order to offset the costs detailed above.

<sup>26</sup> <http://www.womensaid.org.uk/page.asp?section=00010001001400130005&sectionTitle=Women%27s+Aid+Annual+Survey>

<sup>27</sup> Coercive control was also present in 80% of cases with physical violence but it is assumed that if these cases were reported they would not be proceeded against under the new proposed offence. This is because existing violent domestic abuse-related offences are more likely to have longer sentences, so a perpetrator is more likely to be prosecuted for the violent offence instead of coercive control.

<sup>28</sup> [http://www.devon.gov.uk/cost\\_of\\_dv\\_report\\_sept04.pdf](http://www.devon.gov.uk/cost_of_dv_report_sept04.pdf)

<sup>29</sup> a victim can stay in a refuge for anything from one week to one year

### Non-monetised benefits

69. One potential benefit from a new law criminalising coercive control in intimate relationships is that frontline services may be able to intervene earlier and more effectively. If victims are more willing to report coercive control then it may prevent the abuse from progressing into physical and/or sexual violence and reduce the number of repeat victims. This could create savings in housing, as fewer women may be declared homeless or fewer need to seek temporary accommodation, and in health where injuries may be less severe. It may also create savings for health services and the criminal justice system. For example, using the Home Office costs of crime estimates<sup>30</sup> (in 2013 prices) the cost to the CJS for an incident of common assault (this is the closest proxy for non-violent abuse in the costs of crime) is £322 and to health services it is £155.
70. Also, creating a new offence will provide the police and prosecutors with a clearer framework for tackling domestic abuse through the criminal justice system. This may reduce the time that police spend investigating a case as police do not need to spend time deciding what offence to charge offenders with (i.e. they may spend less time making prosecution enquiries).

### Break-even analysis

71. The measures in Option 2 are designed to reduce domestic abuse. We expect the early reporting of domestic abuse through the new offence to lead to early interventions that can prevent an escalation into serious violence or homicide. We know from the evaluation of Domestic Violence Protection Orders (DVPOs) pilot that, when used, DVPOs were associated with a reduction in re-victimisation compared to cases where arrest was followed by no further action – on average, one fewer additional incident of reported domestic violence per victim over an average follow-up period of just over a year. If the impact of Option 2 had a similar effect then the number of victims that experience re-victimisation would fall. Therefore, although the overall number of victims of domestic abuse might not be significantly affected we might expect a reduction in the number of domestic abuse incidents/ offences. It should be noted that DVPOs were directed at physical violence cases and involve barring the perpetrator from the shared residence for 28 days. Prosecution for the new offence would not have the same effect, and so this is not a direct analogy.
72. It has not been possible to predict the level of crime reduction from criminalising coercive control in intimate relationships due to a combination of external factors that may also help reduce the level of domestic abuse (e.g. police forces implementing HMICs recommendations); and there not being any existing data on the effectiveness of creating similar offences. Therefore, a break-even analysis is presented below to show how much domestic violence would have to reduce by in order to offset the policy costs and provide a positive net present value.
73. The break-even analysis presents the total cost of domestic violence and an average cost of domestic violence per victim. These figures include the costs of violent offences, which are not the main focus of this policy. The costs of non-violent domestic violence are expected to be lower, but it is not possible to separate out the two from the literature. Subsequently, the figures presented below may underestimate the reduction in domestic abuse that would need to be achieved for the policy to break-even. However, it should also be noted that not all of the costs of domestic violence can be monetised, and so there could be some additional benefits that might arise beyond those considered in the break-even analysis.
74. The last comprehensive analysis was conducted by Walby in 2009<sup>31</sup>, who estimated the cost of domestic abuse in the UK to be £15.7 billion in 2008. Based on this figure, domestic abuse would have to reduce by between 0.06% and 0.12% in order to break-even against the estimated costs of the policy. The central estimate predicts that domestic abuse would need to fall by 0.09% to break-even<sup>32</sup>. If this reduction in domestic abuse was achieved or exceed there would be benefits

<sup>30</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118042/IOM-phase2-costs-multipliers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118042/IOM-phase2-costs-multipliers.pdf)

<sup>31</sup> [www.lancaster.ac.uk/fass/doc.../Cost\\_of\\_domestic\\_violence\\_update.doc](http://www.lancaster.ac.uk/fass/doc.../Cost_of_domestic_violence_update.doc)

<sup>32</sup> The breakeven analysis divides the total annual cost by the costs of domestic violence to calculate how much domestic violence would have to reduce by in order for the policy costs to be offset. For example, to get the central estimate the following calculation is undertaken: £13.8 million / £15.7 billion = 0.09%.



to victims, employers, the criminal justice system, health services, social services and housing and refuges.

75. The Crime Survey for England and Wales (CSEW) estimates that there were 1.9 million victims of domestic abuse in 2012/13<sup>33</sup>. Combining this with the cost of domestic violence gives an approximate average cost of domestic abuse per victim of £8,279 (£15.7billion/ 1.9 million) and implies that Option 2 would have to protect between 1,100 and 2,300 victims of domestic abuse per year in order for the costs of the policy to be offset. This is around 1% of the current harassment cases that are not reported, but victims could be involved in multiple cases. Table E.5 shows the results of the break-even analysis.

Table E.5 - Break-even analysis

<b>Scenario</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
<b>Net cost (average annual)</b>	£19.1m	£13.8m	£8.8m
<b>Percentage reduction in total domestic violence</b>	0.12%	0.09%	0.06%
<b>Number of victims protected</b>	2,307	1,671	1,061

## NET EFFECT

76. The net effect of this option is a cost of £119.1m million over ten years (in present values). The net present value is negative; however crime reduction benefits have not been included in the calculations, which could result in a cost saving to the UK as a whole if approximately 1,500 cases of domestic abuse are prevented each year.

77. Table E.6 summarises the net benefits to each agency over ten years.

Table E.6 - The net benefit to each agency over ten years (in present values)<sup>34</sup>

	<b>Best estimate (£m)</b>	<b>Upper bound (£m)</b>	<b>Lower bound (£m)</b>
<b>Police</b>	-£19.2	-£11.0	-£29.7
<b>CPS</b>	-£15.7	-£10.1	-£21.1
<b>HMCTS</b>	-£13.7	-£8.9	-£18.5
<b>Legal Aid Agency</b>	-£7.8	-£5.1	-£10.6
<b>HM Prisons</b>	-£43.1	-£27.9	-£58.1
<b>Probation Service</b>	-£19.6	-£12.7	-£26.4
<b>Total</b>	-£119.1	-£75.6	-£164.4

## ONE-IN-TWO-OUT (OITO)

78. There is no direct regulatory impact so this assessment is out of scope of one-in-two-out (OITO). There is an indirect impact on domestic violence services who may deal with an increased number of referrals. The costs to the specialist sector are considered out of scope of OITO as the police are not mandated to refer cases to outreach or refuge services, and outreach and refuge services are not mandated to deal with additional cases.

## F. Risks

### OPTION 1 – Doing Nothing

79. As set out above, there is evidence from partners and the HMIC report that although there are existing offences capable of being applied to the new definition of domestic abuse, the law in its

<sup>33</sup> <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/focus-on-violent-crime-and-sexual-offences--2012-13/index.html>

<sup>34</sup> Negative numbers indicate that costs are greater than benefits

current framework is ambiguous in how non-violent forms of domestic abuse can be prosecuted and is not consistently applied. Doing nothing may mean that the disparity between law and practice continues, meaning that victims remain trapped in cycles of abuse based on power and control. Actions to address HMIC's recommendations to improve the police response to domestic abuse, which includes new training and Authorised Professional Practice guidance for the police, will go some way towards standardising practice and mitigating this risk.

## **OPTION 2 – Strengthening the Law**

80. Changing the law risks duplicating existing offences, however this is a minor risk given the evidence from our operational partners that the law around non-violent abuse is not being used in the context of domestic abuse. There is also a clear argument that, provided a perpetrator is brought to justice and receives the appropriate sentence, the particular offence that is charged is largely immaterial to the desired impact.
81. There is a risk that focus on a legal change will distract from the need to drive operational improvements clearly highlighted by HMIC, and pull resources away from this work. However, the mechanisms to mitigate this risk are already in place through the National Oversight Group that the Home Secretary is chairing, which has the sole task of driving operational improvements in the police response.
82. Finally, there is a risk that changing the law will reduce reporting of domestic abuse as victims will be reluctant to subject their partners and intimate family to the criminal justice system. The risk of harm to victim caused by a reluctance to report is mitigated by the introduction of the Domestic Violence Protection Orders (a civil court order) from March 2014, which allow the police and magistrates to put in place measures to protect victims for up to 28 days.

## **G. Enforcement**

83. Enforcement will be carried out by the police in accordance with existing codes and guidance.

## **H. Summary and Recommendations**

84. Table H.1 below outlines the costs and benefits of the proposed changes.

<b>Table H.1 Costs and Benefits</b>		
<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>2</b>	<u>Monetised:</u> £119.1 million over 10 years (in present values), which breaks down as: <ul style="list-style-type: none"> <li>£19.2 million to police forces from additional investigations</li> <li>£99.5 million to CJS agencies from additional cases proceeded against; with £15.7million to the CPS; £13.7 million to HMCTS; £7.8 million to the LAA; £43.1 million to HM Prisons; and £19.6 million to the Probation Service.</li> </ul>	

	<p><u>Non-monetised:</u></p> <ul style="list-style-type: none"> <li>• There will be transition costs to the police from adapting IT infrastructure and from training. It is thought the CPS, HMCTS etc. may face similar costs.</li> <li>• There may be additional costs to domestic violence services from an increase in referrals to refuge and outreach services.</li> </ul>	<p><u>Non-monetised:</u></p> <ul style="list-style-type: none"> <li>• Crime reduction benefits are not quantified. Break-even analysis suggests that domestic violence would have to reduce by 0.09% for the policy to present a positive overall benefit. This is equivalent to preventing 1,600 domestic abuse cases.</li> <li>• If frontline services may be able to intervene earlier and more effectively there may be savings to housing, health and other statutory services.</li> <li>• If a clearer framework for the police may reduce the amount of time spent investigating a case.</li> </ul>
Source: Home Office internal analysis		

85. Option 2 is the preferred option. There is a gap in the law that needs to be closed to ensure victims trapped in cycles of non-violent abuse are protected. The results of the consultation suggest that there is a preference for implementing a law that criminalises coercive control.

86. The net effect of this policy is a cost of £119.1 million over ten years (in present values). The net present value is negative; however the benefits of option 2 have not been included in the calculations and they are likely to be significant if there is a reduction in either repeat victimisation of domestic abuse or the prevalence of domestic abuse.

87. It is expected that option 2 will increase reporting of domestic abuse, which may reduce the number of repeat incidents that victims experience. It may also mean that the police and/or domestic violence services are able to support victims before the domestic abuse escalates to violence, sexual assault or domestic homicide. This will provide benefits to health services and the criminal justice system, for example.

## I. Implementation

88. The Home Office will work with the police in the run up to implementation of the new offence to ensure a plan is in place.

## J. Monitoring and Evaluation

89. The effectiveness of the new regime will be monitored by the Home Office. We will review any new provisions a year after their implementation. In reviewing the effectiveness of the provisions we will evaluate a range of quantitative and qualitative sources. Key indicators such as police recorded data and CPS data will be important, but more critical will be feedback from victims and frontline practitioners, including the police and prosecutors.

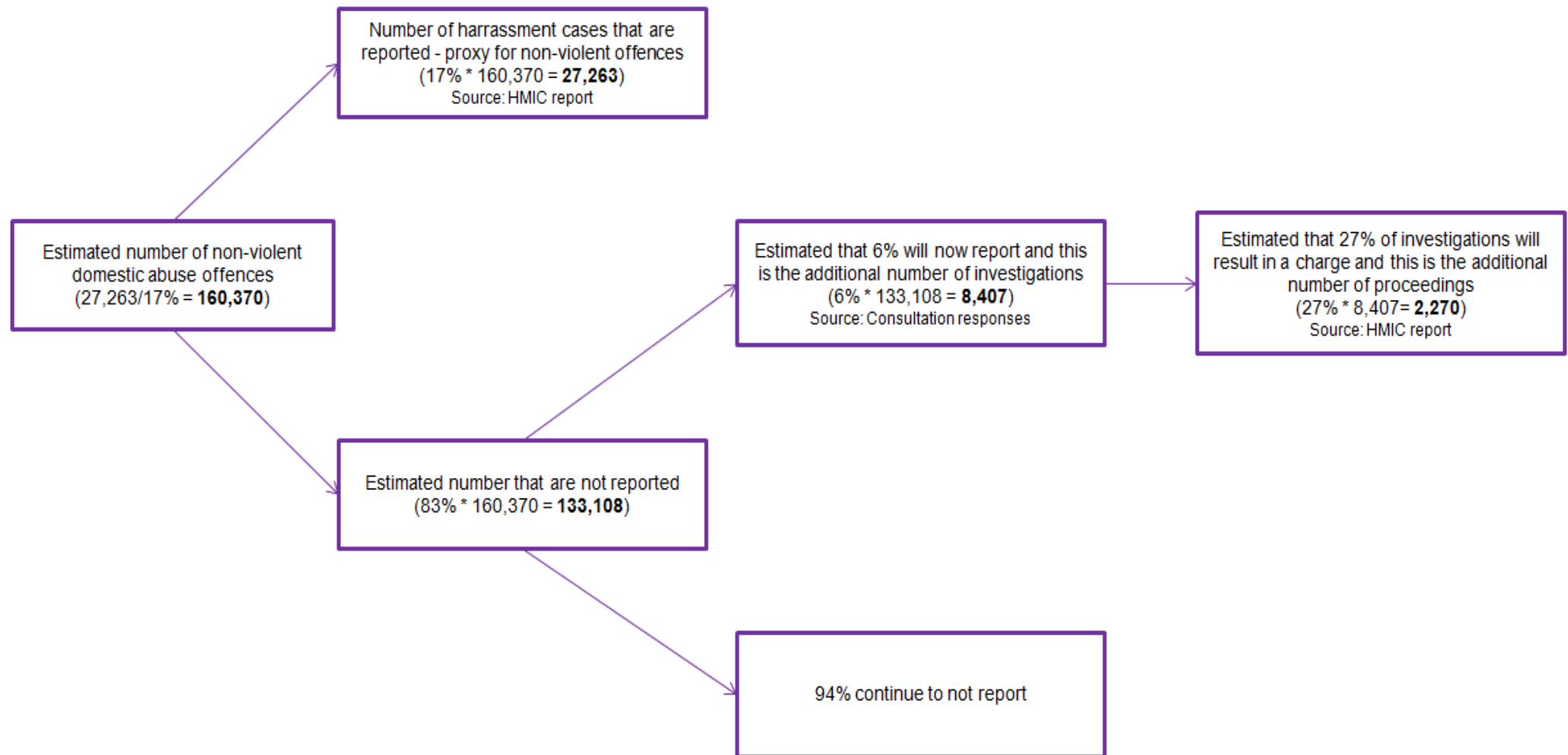
## K. Feedback

90. As part of the work to address HMIC's recommendations for improving the police response to domestic abuse, the Home Office is working on a new victim satisfaction survey for domestic abuse victims. We will use this as a mechanism for assessing the impact of this new policy on victims.

91. We will continue to hold regular engagement events with key partners, including the police and service providers. We will use these opportunities to gather their feedback.

## Annex A: Increase in investigations and CJS proceedings

Figure AA.1 - The additional number of investigations and proceedings each year<sup>1</sup>



<sup>1</sup> The 17% of cases reported is taken from CAADA



## Annex B: Ministry of Justice Assumptions

- i. 2013 data from the proxy offence of putting people in fear of violence (Section 4 of Protection from Harassment Act 1997<sup>1</sup>) has been used to estimate progression of cases through the CJS.

Table AB.1 - Ministry of Justice Assumptions

Assumptions	Risks
<p><b>Proportion of cases tried in the magistrates' vs. the Crown Court</b></p> <ul style="list-style-type: none"> <li>It is assumed that 74% of defendants are tried in the magistrates' court and 26% are tried in the Crown Court.</li> </ul> <p>Source: Further breakdown of Criminal Justice Statistics, Ministry of Justice (MoJ), 2013/14.</p>	<ul style="list-style-type: none"> <li>More cases will be tried in the Crown where the costs tend to be higher.</li> </ul>
<p><b>Proportion of defendants found guilty</b></p> <ul style="list-style-type: none"> <li>It is assumed that 61% of defendants are convicted.</li> </ul> <p>Source: Further breakdown of Criminal Justice Statistics, Ministry of Justice (MoJ), 2013/14.</p>	<ul style="list-style-type: none"> <li>More defendants will be convicted.</li> </ul>
<p><b>Disposals given:</b></p> <ul style="list-style-type: none"> <li>It is assumed that of those convicted, around 32% offenders are given a custodial sentence.</li> </ul> <p><b>Average custodial sentence length (ACSL):</b></p> <ul style="list-style-type: none"> <li>It is assumed that the ACSL would be 10 months.</li> </ul> <p>Source: Further breakdown of Criminal Justice Statistics, Ministry of Justice (MoJ), 2013/4.</p>	<ul style="list-style-type: none"> <li>That the ACSL given is longer.</li> <li>Offenders given less than 12 months in custody are not currently subject to supervision on release. Under the Offender Rehabilitation Act 2014 this will change but for the purposes of this IA we have based estimates of cost on current practice.</li> </ul>
<p><b>New policies</b></p> <ul style="list-style-type: none"> <li>Our analysis does not take into account the possible interaction with other policies that have not yet been commenced.</li> </ul>	<ul style="list-style-type: none"> <li>There is the risk that such policies, once commenced, could have an impact on the base case set out in this impact assessment. As a result, the associated impacts may be under or over estimated.</li> </ul>

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1997/40/section/4>

<b>Cost assumptions</b>	
<p><b>CPS costs, advocacy costs:</b></p> <ul style="list-style-type: none"> <li>The estimated CPS costs consist of two broad categories, advocacy costs and Activity Based Costings (ABC). The primary purpose of the ABC model is resource distribution, and has several limitations (see risks).</li> </ul> <p>Source: CPS 2014; MoJ internal analysis, 2014.</p>	<ul style="list-style-type: none"> <li>The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated. For further information about how CPS ABC costs are calculated please see the following CPS guidance (CPS, 2012): <a href="http://www.cps.gov.uk/publications/finance/abc_guide.pdf">http://www.cps.gov.uk/publications/finance/abc_guide.pdf</a>.</li> </ul>
<p><b>HMCTS costs (magistrates' court):</b></p> <p>To generate the costs by offence categories, HMCTS timings data for each offence group were applied to court costs per sitting day. Magistrates' court costs are £1,100 per sitting day in 2013/14 prices. A sitting day is assumed to be five hours. The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2013-14. HMCTS timings data from the Activity based costing (ABC) model, the Timeliness Analysis Report (TAR) data set and the costing process.</p>	<p>Timings data for offence categories:</p> <ul style="list-style-type: none"> <li>The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a District Judge (magistrates' court) sits.</li> <li>The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a DJ(MC) sits.</li> <li>Timings do not take into account associated admin time related with having a case in court. This could mean that costings are an underestimate. There is some information available on admin time, however we have excluded it for simplicity.</li> <li>The timings are collection of data from February 2009. Any difference in these timings could influence costings.</li> <li>The timings data also excludes any adjournments (although the HMCTS ABC model does include them), and is based on a case going through either one guilty plea trial (no trial) or one effective (not guilty plea) trial. However a combination of cracked, ineffective and effective trials could occur in the case route. As a result the costings could ultimately be underestimates.</li> <li>Guilty plea proportions at the Initial hearing from Q2 in 2012 are used, based on the Time Analysis Report. As these can fluctuate, any changes in these proportions could influence court calculations (effective trials take longer in court than no trials (trials where there was a guilty plea at the initial hearing).</li> </ul>

	<p>HMCTS average costs per sitting day:</p> <p>HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.</p>
<p><b>HMCTS costs (Crown Court):</b></p> <p>Timings data for types of case (eg, indictable only, triable either way) were applied to Crown Court costs per sitting day. This was added to the cost of the initial hearing in the magistrates' court, as all criminal cases start in the magistrates' courts. Crown Court cost is £1,500 per sitting day in 2013/14 prices, assuming a sitting day is five hours. The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2013-14.</p>	<p>Timings data for types of cases:</p> <ul style="list-style-type: none"> <li>• The average time figures which provide the information for the timings do not include any down time. This would lead to an underestimate in the court costing.</li> <li>• Timings do not take into account associated admin time related with listing a case for court hearings. This could mean that costings are an underestimate.</li> <li>• The data which informed the timings data excludes cases where a bench warrant was issued, no plea recorded, indictment to lie on file, found unfit to plead, and other results.</li> <li>• Committals for sentence exclude committals after breach, 'bring backs' and deferred sentences.</li> </ul> <p>HMCTS average costs per sitting day:</p> <ul style="list-style-type: none"> <li>• HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.</li> <li>•</li> </ul>
<p><b>Legal Aid Costs:</b></p> <p><i>Cases in the magistrates' court</i></p> <ul style="list-style-type: none"> <li>• It is assumed that the eligibility rate for legal aid in the magistrates' court is 50%.</li> <li>• The average cost per case is £485 and assumes that there is one defendant per case. This is based on the latest available legal aid statistics (Jan-Mar 2014), and is calculated by dividing total case value by total case volume. See: <a href="https://www.gov.uk/government/publications/legal-aid-statistics-april-2013-to-march-2014">https://www.gov.uk/government/publications/legal-aid-statistics-april-2013-to-march-2014</a> (Main tables, table 2.3).</li> </ul> <p><i>Cases in the Crown Court</i></p> <ul style="list-style-type: none"> <li>• It is assumed that the eligibility rate for legal aid in the Crown Court is 100%.</li> </ul>	<p><i>Magistrates' court</i></p> <ul style="list-style-type: none"> <li>• Variance in the legal aid eligibility rate assumed for cases in the magistrates' courts would impact the costings.</li> <li>• More than one defendant prosecuted per case and therefore more solicitors and barristers per case than assumed thus understating the actual cost.</li> </ul> <p><i>Crown Court:</i></p> <ul style="list-style-type: none"> <li>• Assuming 100% eligibility for legal aid in the Crown Court carries several other risks.</li> </ul>

<ul style="list-style-type: none"> <li>• The average cost per defendant is around £1,000 in 2013/14 prices for this offence type.</li> <li>• We assume one defendant per case. One defendant instructs one solicitor who submits one bill. As such, we use the cost per solicitor bill from the 2013/14 data as a proxy for the cost per defendant.</li> </ul> <p>Source:  <a href="https://www.gov.uk/government/publications/legal-aid-statistics-april-2013-to-march-2014">https://www.gov.uk/government/publications/legal-aid-statistics-april-2013-to-march-2014</a></p>	<p>Firstly, an individual may refuse legal aid. Secondly, an individual may be required to contribute to legal aid costs. Lastly, the size of this contribution can vary.</p> <ul style="list-style-type: none"> <li>• There is more than one defendant prosecuted per case and therefore more solicitors and barristers per case than assumed thus understating the actual cost.</li> </ul>
<p><b>Prison costs:</b></p> <ul style="list-style-type: none"> <li>• It is assumed that an offender serves half of their given custodial sentence:</li> <li>• This means it is assumed that offenders will on average serve 5 months in prison.</li> <li>• The cost per prison place is approximately £28,000.</li> </ul> <p>Source: NOMS management accounts addendum (2012/13).</p>	<ul style="list-style-type: none"> <li>• The cost of additional prison places is also dependent on the existing prison population, as if there is spare capacity in terms of prison places then the marginal cost of accommodating more offenders will be relatively low due to existing large fixed costs and low variable costs. Conversely, if the current prison population is running at or over capacity then marginal costs would be significantly higher as contingency measures will have to be found.</li> </ul>
<p><b>Probation costs:</b></p> <p><b>Post release licence costs:</b></p> <ul style="list-style-type: none"> <li>• It is assumed that post release probation costs are approximately £2,700 per year in 2013/14 prices.</li> </ul> <p><b>Independent probation costs:</b></p> <ul style="list-style-type: none"> <li>• Costs for probation and community sentences are approximately £2,700 per year in 2013/14 prices.</li> <li>• The probation costs are based on national costs for community order/ suspended sentence order, found at NOMS, Probation Trust Unit Costs, Financial Year 2012-13 and uprated in line with the GDP deflator of 1.84% (<a href="https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-september-2014-quarterly-national-accounts">https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-september-2014-quarterly-national-accounts</a>).</li> </ul> <p>Source: MoJ internal analysis, 2013/14.</p>	<ul style="list-style-type: none"> <li>• We have based our estimates on current practice. However, the Offender Rehabilitation Act 2014 includes provisions to introduce post release licence conditions for offenders given a custodial sentence of less than 12 months.</li> <li>• After the commencement of these provisions, there will be costs associated with post release licence for offenders convicted of this offence who are sentenced to immediate custody. The wider costs of extending post-release supervision to any offenders released from short custodial sentences will be met through savings realised from the Transforming Rehabilitation reforms to probation services.</li> </ul>

## Annex C: Monte Carlo Analysis

- i. This Annex explains how Monte Carlo simulation was used to estimate the expected annual cost of Option 2.

### Inputs

- ii. The model used in this analysis is based on eight assumptions:
- The number of additional investigations carried out by the police;
  - the number of additional proceedings through the criminal justice system (CJS);
  - the cost of a police investigation;
  - the cost per proceeding to the Crown Prosecution Service (CPS);
  - the cost per proceeding to Her Majesty's Courts and Tribunal Service (HMCTS);
  - the cost per proceeding to the Legal Aid Agency (LAA);
  - the cost per proceeding to HM Prisons;
  - and the cost per proceeding to the probation service.
- iii. The expected value of the first three assumptions is uncertain. To account for this uncertainty these assumptions enter the model as a three point estimate, which involves a maximum expected value, a minimum expected value and a most likely estimate. The three point estimates for each of the first three assumptions are assumed to follow a triangular distribution between the minimum and maximum values.
- iv. The last five assumptions enter the model as constants. Table AC.1 shows the input values for each assumption:

Table AC.1 - the inputs to the Monte Carlo model

	<i>Most Likely</i>	<i>Minimum</i>	<i>Maximum</i>
% increase in reporting	6%	2%	10%
Number of investigations	8,407	3,082	13,731
Number of proceedings	2,270	832	3,707
Cost of an investigation	£110	£274	£438
Cost to the Crown Prosecution Service per proceeding	£800	£800	£800
Cost to HMCTS per proceeding	£700	£700	£700
Cost to Legal Aid Agency per proceeding	£400	£400	£400
Cost to HM Prisons per proceeding	£2,200	£2,200	£2,200
Cost to Probation Service per proceeding	£1,000	£1,000	£1,000

- v. It is assumed that the inputs are correlated. For simplicity the correlation between the CJS agencies is assumed to be 1, and the correlation between the police and the CJS is assumed to be 0.5. The correlation between investigations and the number of cases proceeding to the CJS is expected to be positive (i.e. in general more investigations means more proceedings), but not necessarily perfectly correlated like with costs within the CJS.

### The Model

- vi. The model is made up of six equations that provide the total average annual cost of Option 2. The first equation gives the annual cost to the police and the remaining five equations give the annual cost to each CJS agency. These are added together to give the total average annual cost.

#### Equation 1

Average annual cost to the police = Additional number of investigations · cost per investigation

### Equation 2

Average annual cost to CPS = Additional number of proceedings · cost per proceeding to CPS

### Equation 3

Average annual cost to HMCTS = Additional number of proceedings · cost per proceeding to HMCTS

### Equation 4

Average annual cost to LAA = Additional number of proceedings · cost per proceeding to LAA

### Equation 5

Average annual cost to HM Prisons  
= Additional number of proceedings · cost per proceeding to HM Prisons

### Equation 6

Average annual cost to Probation  
= Additional number of proceedings · cost per proceeding to probation service

## **Method**

- vii. The Monte Carlo simulation works by drawing a value for each of the assumptions in Table AC.1 from within their range and inserts them into the relevant equation above. The model then runs to give an average annual cost to the police and each CJS agency.
- viii. This is repeated 10,000 times to give a distribution of average annual costs to the police and each CJS agency. The distribution shows the likelihood of the actual annual cost attaining that value.

## **Results**

- ix. The results of the Monte Carlo simulation provide a series of histograms showing the probability distribution of each of the outputs i.e. the average annual cost to the police and each CJS agency. The output for each equation is shown in Figures AC.1 to AC.6.
- x. The red vertical lines on the histograms show the 10% and 90% confidence interval for the police and each CJS agency. These lines provide the expected range of average annual costs to the police and each CJS agency. For example, we expect the annual costs to the police to be between £1.27 million and £3.45 million a year. Using the 10% and 90% confidence intervals as the expected range is preferred to using the maximum and minimum as it avoids extremes, which would only happen with a very small probability.
- xi. The central black vertical line shows the 50% confidence interval, which is our best estimate for the average annual cost to the police and CJS agencies. For example, the central estimate for the average annual cost to HMCTS is £1.59 million. The 10%/ 50%/ 90% confidence intervals (CI) for the police and each CJS agency are shown in Table AC.2.

Table AC.2 - the 10%/ 50%/ 90% CI for the annual cost to the police and each CJS agency

	<b>10% CI</b>	<b>50% CI</b>	<b>90% CI</b>
<b>Police</b>	£1,270,000	£2,230,000	£3,450,000
<b>CPS</b>	£1,180,000	£1,820,000	£2,450,000
<b>HMCTS</b>	£1,030,000	£1,590,000	£2,150,000
<b>Legal Aid Agency</b>	£589,000	£910,000	£1,230,000
<b>HM Prisons</b>	£3,240,000	£5,010,000	£6,750,000
<b>Probation Service</b>	£1,470,000	£2,280,000	£3,070,000
<b>Total</b>	£8,779,000	£13,840,000	£19,100,000

- xii. The average annual costs reflected in the 10/50/90% confidence intervals are assumed to be the same in each year, and so the net present value over ten years is the net present value of the average annual cost multiplied by ten.

Figure AC.1 - probability distribution of the cost to the police

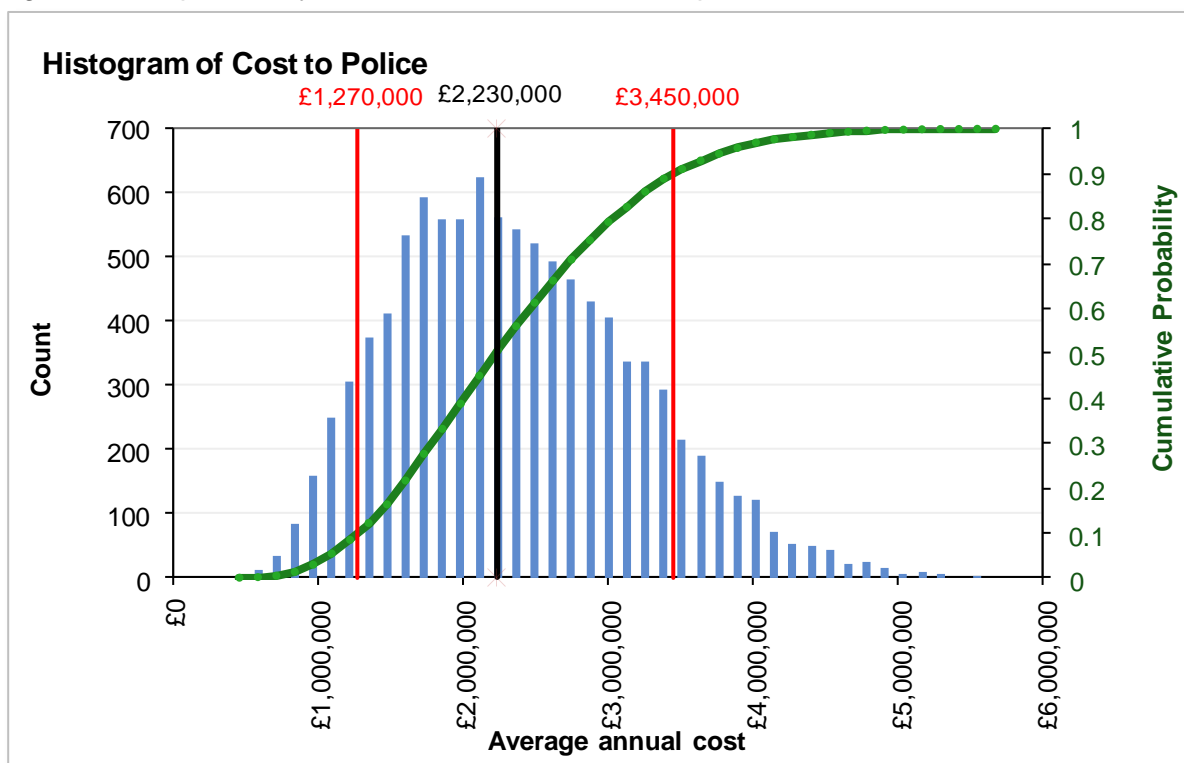


Figure AC.2 - probability distribution of the cost to the CPS

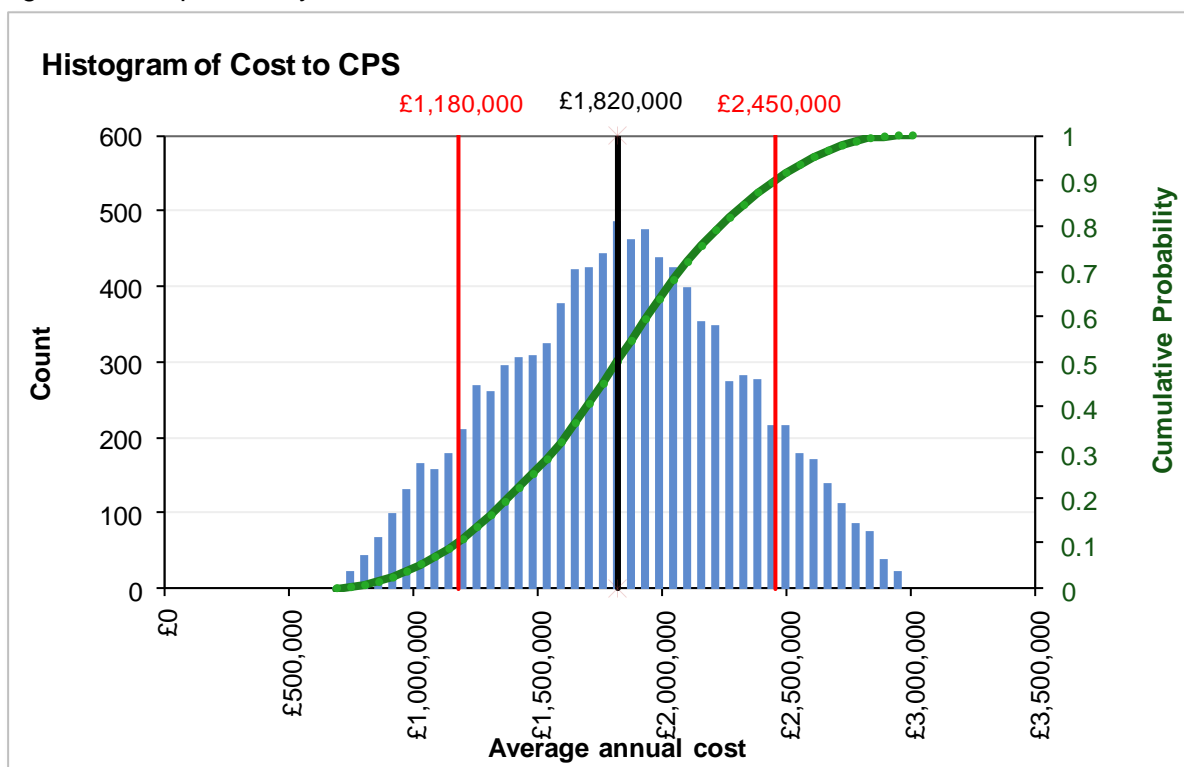




Figure AC.3 - probability distribution of the cost to HMCTS

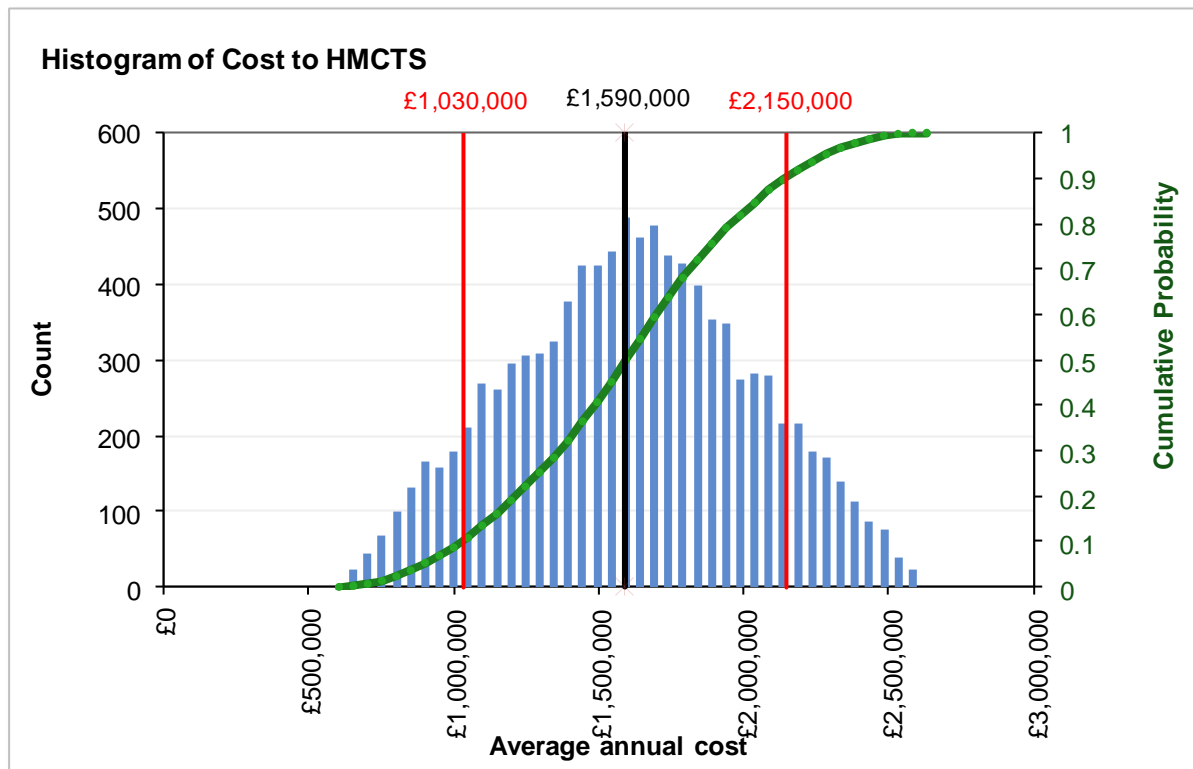


Figure AC.4 - probability distribution of the cost to the Legal Aid Agency

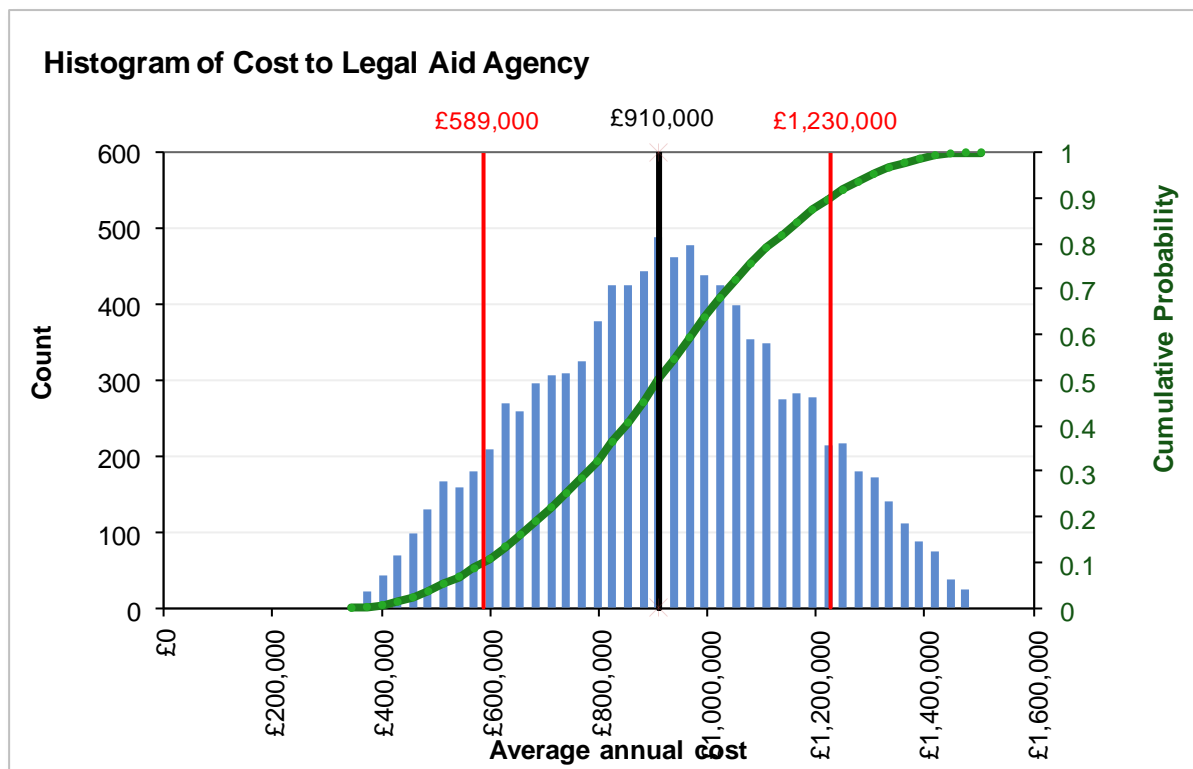


Figure AC.5 - probability distribution of the cost to HM Prisons

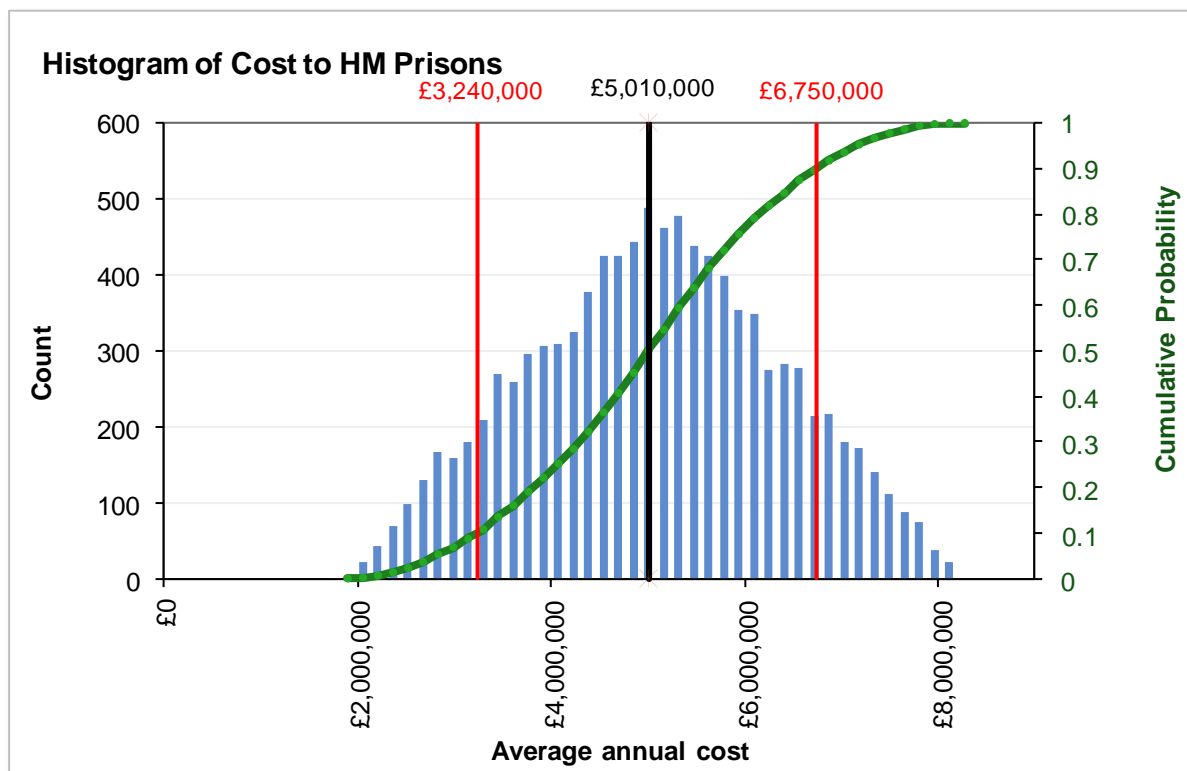


Figure AC.6 - probability distribution of the cost to the Probation Service

