

Impact Assessment, The Home Office

Title: Domestic Abuse Act 2021

IA No: HO0391

RPC Reference No: N/A

Lead department or agency: The Home Office, Ministry of Justice

Other departments or agencies: Ministry for Housing, Communities and Local Government and Department of Health and Social Care

Date: May 2021

Stage: Enactment

Intervention: Domestic

Measure: Primary legislation

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RPC Opinion: Not Applicable

Business Impact Target: Non qualifying provision

Cost of Preferred (or more likely) Option (in 2021/22 prices)

Net Present Social Value NPSV (£m)	-1,411	Business Net Present Value BNPV (£m)	0	Net cost to business per year EANDCB (£m)	0
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What is the problem under consideration? Why is government intervention necessary?

Despite recent progress in tackling domestic abuse (DA) its prevalence remains high. According to the Crime Survey for England and Wales year ending March 2020, an estimated 5.5 per cent of adults aged 16 to 74 years (2.3 million) experienced domestic abuse in the previous year. Government intervention is required to legislate to facilitate a wider cultural change around DA, provide protection to victims and their children, support and strengthen the justice system response to DA.

What is the strategic objective? What are the main policy objectives and 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 Act 2021, 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.

Main assumptions/sensitivities and economic/analytical risks

Discount rate (%)

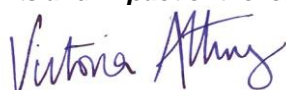
3.5%

Estimates of the volume of Domestic Abuse Protection Orders (DAPOs) are highly 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. The unit cost per DA perpetrator programme is highly uncertain as the exact nature and use of perpetrator programmes is yet to be determined.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: May 2026

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

Signed by the responsible Minister:



Date:

22nd July 2021

Summary: Analysis & Evidence

Policy Option 1

Description: Domestic Abuse Act

FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2021/22	PV Base	2021/22	Appraisal	10	Transition	
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-1,358	High:	-1,677	Best:	-1,411	Best BNPV	0	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low		1,358	1,358	172	0
High		1,677	1,677	221	0
Best Estimate		1,411	1,411	182	0

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

The main costs (over 10 years at present value) from the Act across the UK are estimated to be in a range of £1,358 to £1,677 million. The total annual cost at full implementation is £172 to £221 million (in 2021/22 prices), apportioned as follows: Home Office £4.3 to £35.2 million, MoJ £38.1 to £55.8 million, AGO £1.0 to £1.6 million, MHCLG £127.6 million and Scotland £0.8 million.

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

There are several non-monetised costs associated with the measures in the Act. These include: costs to monitor perpetrators complying with the conditions of the DAPO, and the costs to cover the increase in scope of Controlling or Coercive Behaviour (CCB) offence to cover family members not living with the victim.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0	0	0	0	0
High	0	0	0	0	0
Best Estimate	0	0	0	0	0

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

There is expected to be significant benefits as outlined throughout section (E), however it has not been possible to monetise the benefits associated with the measures in the Act, due to data availability and the lack of robust data on outcomes.

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

The main non-monetised benefits of the measure in the Act 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 annual cost at full implementation of these policies to be offset if the total number of DA victims is reduced by 0.2 per cent per year.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:										
Cost, £m	0		Benefit, £m	0		Net, £m	0			
Score for Business Impact Target (qualifying provisions only) £m:							0			
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		

PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2)

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

A. Strategic Objective and Overview

A.1 Strategic Objective

1. 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.

A.2 Background

2. 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”*.
3. 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 (CCB). 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.
4. Despite this progress, there is still much more to do: for the year ending March 2020, the Crime Survey for England and Wales estimates that 2.3 million adults aged 16 to 74 years experienced domestic abuse in the last year 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 for a charging decision, have fallen by 36 per cent between the year end March 2016 and in the year ending March 2020 (from 124,292 to 79,965)⁴. The number of prosecutions and convictions for domestic abuse-related offences continue to fall. There were 61,169 prosecutions in the year ending March 2020 compared to 100,931 in the year ending March 2016. There were 47,534 convictions in the year ending March 2020 compared to 75,236 in the year ending March 2016.⁵ These statistics suggest that further intervention is required in this area to improve criminal justice outcomes.
5. On 17 February 2017, the Government announced a new programme of work leading towards a Domestic Abuse Act 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 2019.⁶

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.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseandthecriminaljusticesystemenglandandwales/november2020>

⁵ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseandthecriminaljusticesystemenglandandwales/november2020>

⁶ <https://www.gov.uk/government/news/22-million-for-projects-to-support-domestic-abuse-survivors>

A.3 Groups Affected

6. The following groups will be most affected by this policy:
- Victims.
 - Victims of domestic abuse seeking access to legal aid.
 - GP practices.
 - Defendants / Alleged Perpetrators / Perpetrators.
 - Witnesses.
 - 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).⁷
 - 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.
 - Her Majesty's Prison and Probation Service.
 - Community Safety Partnerships.
 - Independent Office for Police Conduct.
 - Child contact centres and providers of child contact services.

A.4 Consultation

Public Consultation

7. 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.⁸ 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 then draft Domestic Abuse Bill.⁹ 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.
8. The then draft Domestic Abuse Bill was subjected to pre-legislative scrutiny by a Joint Committee of both Houses of Parliament which reported in June 2019¹⁰. 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.
9. The Ministry for Housing, Communities and Local Government consultation '*Domestic Abuse Services: Future Delivery of Support for Victims and their Children in Accommodation-Based Domestic Abuse Services*' was launched on 13 May 2019 and ran until 2 August 2019.¹¹ The

⁷ Subject to the outcome of future restructuring, CRC impacts will then accrue to NPS.

⁸ <https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/>

⁹ Home Office (2019) *Transforming the Response to Domestic Abuse: Consultation Response*. London: Home Office

¹⁰ <https://publications.parliament.uk/pa/jt201719/jtselect/jtddab/2075/2075.pdf>

¹¹ <https://www.gov.uk/government/consultations/support-for-victims-of-domestic-abuse-in-safe-accommodation>

consultation received over 400 responses which have been considered by the Government. The Government response was published on 15 October 2019.

10. The Home Office also consulted with the sector and the Ministry of Justice on the extension to the coercive and CCB offence.
11. The Home Office agreed with the IOPC that a MoU would be put in place with the Domestic Abuse Commissioner's office to set out the terms of their duty to cooperate.

B. Rationale for intervention

12. The conventional economic approach to government intervention is based on efficiency or equity (fairness) 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 and re-distributional reasons (for example, to re-allocate goods and services to the needier groups in society).
13. The rationale for intervention in this case relates to fairness. 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

14. 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.
15. 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.
16. To address these objectives, the following legislative measures are proposed through the Act:
 - 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 Act. 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 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' abuse¹² as a form of abuse (rather

¹² 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.

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 Act 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 (DAPN) and domestic abuse protection order (DAPO):** The DAPN will be issued by the police to provide the victim with immediate protection for up to 48 hours, pending a hearing within 48 hours at which the police's application for an order will be considered, within which time the police must make an application to the court for a DAPO. A DAPO can be made by the court following the issue of a DAPN by the police, on application by the victim, a third party specified in regulation or with leave of the court, or by the court of its own volition during ongoing proceedings, and will provide longer-term and more effective protection (as it can include both prohibitions and positive requirements that the perpetrator must comply with) for victims of domestic abuse, or those at risk of domestic abuse. Breach of an order without reasonable excuse will be a criminal offence, the penalty for which will be up to five 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 Convention¹³ by extending our extraterritorial jurisdiction over specified offences (particularly, but not exclusively) involving VAWG.
- e) **Place the guidance underpinning the Domestic Violence Disclosure Scheme (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 limited, specified circumstances in family and civil proceedings:** This will make provision for the prohibition of cross-examination in person in limited, 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 such 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 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 one¹⁴ 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

¹³ 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.

¹⁴ "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.

- k) **To make provision in primary legislation for 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.
- n) **Extend the offence of controlling or coercive behaviour in an intimate or familial relationship to remove the co-habitation requirement:** To strengthen the legal framework for CCB and improve protection for victims, by increasing prosecutions and leading to better justice outcomes for victims. This will be achieved by extending the CCB offence to capture all victims, regardless of their living arrangements with the perpetrator. Specifically, the change will: close the gap in the law in relation to post-separation controlling and coercive behaviours not explicitly provided for in existing offences, provide clarity in charging for the police and bring the definition of CCB in line with the statutory definition of domestic abuse.
- o) **Extend the offence at s33 of the Criminal Justice and Courts Act 2015 to cover threats to disclose intimate images:** The objective is to protect those who are threatened with the disclosure of private sexual photographs of themselves. The provisions will extend the offence at s33 of the Criminal Justice and Courts Act 2015 of disclosing private sexual photographs or films to those other than the individual who appears in them without the consent of that individual and with the intent to cause that individual distress to include, those who threaten to post or disclose such images. These provisions will create a clear and consistent enforcement regime for both threats and actual disclosures. The reform will provide greater protection to those who might have had to endure such intrusive and distressing behaviour.
- p) **Inserts new sections 75A and 75B, into the Serious Crime Act 2015 to create a new criminal offence of strangulation or suffocation and to provide extraterritorial effect to the offence:** The offence will have general application and will apply to all cases, including those which occur in a domestic abuse context. It will apply to behaviour that is currently criminal under a range of other offences but aims to improve the ability to prosecute and secure convictions where strangulation or suffocation is a factor.
- q) **Amendment to the Domestic Violence, Crime and Victims Act 2004 to require that all Domestic Homicide Review (DHR) reports are shared with the Domestic Abuse Commissioner:** To improve oversight of DHRs, collate findings from DHRs and facilitate a reduction in homicides related to DA.
- r) **Place a duty on the Secretary of State to issue a perpetrator strategy within one year of Royal Assent:** To bring forward a document that sets out a strategy for detection, investigation and prosecution of offences, assessment and management of risk (including risks associated with stalking), and reducing the risk of individuals committing further acts of abuse. This will form part of a wider domestic abuse strategy.
- s) **A clarification that the circumstances in which a court can bar an individual from making applications under the Children Act 1989 without the court's permission include domestic abuse circumstances:** An amendment to the Children Act 1989 would clarify that courts can make section 91(14) 'barring orders' in order to prevent domestic abuse perpetrators from using further child contact and other proceedings to continue their abuse. This would be achieved by specifying that these orders are available to prevent risk of harm to parent victims and their children and will help ensure that these orders are used more often by courts to protect victims of domestic abuse.

- t) **Prohibition on charging for the provision of medical evidence of domestic abuse:** To prohibit charges for the preparation and provision of domestic abuse legal aid letters by health professionals in general practice in the circumstances set out below. To achieve this aim, the amendment prevents charging where a relevant health professional prepares or provides a letter supporting an application for legal aid in instances of domestic abuse and the health professional has assessed the patient in the course of providing services under an NHS contract. Charging is also prohibited for the preparation or provision of a letter supporting an application for legal aid in instances of domestic abuse where a relevant health professional wholly or mainly provides services under an NHS contract.
- u) **Report on the use of child contact centres in England:** Duty is placed on the Secretary of State, within two years of Royal Assent of this legislation, to prepare and publish a report about the extent to which individuals, when they are using contact centres in England, are protected from the risk of domestic abuse or, in the case of children, other harm.
- v) **To lay before Parliament a review into a data-sharing firewall between police and Immigration Enforcement for migrant victims' crime:** The review will be published by the end of June and will be informed by consultation with support groups for migrant victims. Once the report has been published, work will begin on drafting a Code of Practice governing data-sharing between police and Immigration Enforcement.

D. Options considered and implementation

- 17. **Option 1:** is not to implement measures (a) to (v). This is the 'do nothing' option. While there are no costs associated with this option, it does not meet the Government's objectives.
- 18. **Option 2:** To meet the policy objectives set out in paragraphs 14 and 15, the Government proposes to implement the legislative measures under Option 2 as set out in paragraph 16. **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 Act. 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 3, at the end of the appraisal section (E).

(a) Introduce a statutory definition of domestic abuse

- 19. 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 Act 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.
- 20. **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 Commissioner and the Domestic Abuse Protection Orders (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

21. 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).

22. **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

23. 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 that can 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 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). A DVPO 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 and Domestic Abuse Protection Order.** 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 DVPN and 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 Act 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 without reasonable excuse would be a criminal offence carrying a maximum penalty of five years' imprisonment, or a fine, or both. Alternatively, breach of a DAPO 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 DAPN and DAPO will be piloted in a small number of areas across the country to assess its effectiveness before any national roll-out.

24. **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

25. 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.** Demonstrate our commitment to ratifying the Istanbul Convention by extending our extraterritorial jurisdiction over specified offences (particularly, but not exclusively) involving VAWG.

26. **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 on a statutory footing

27. 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 police forces. This may result in missed opportunities for the scheme to be used and might reduce 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.

28. **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 limited, 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 such circumstances

29. 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 limited, 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.** 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.
30. **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 (for example, 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.
31. 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 qualified legal representatives.

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

32. To meet the policy objectives, two options have been considered:
- a) **Option 1: Do Nothing.** At present the National Probation Service (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.
33. **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)

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

- 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).** There are a range of special measures that adult victims of domestic abuse could automatically be eligible to be considered for (those under 18 years of age 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-examination¹⁵.

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.

(i) Protect security of tenure for domestic abuse victims

35. This measure is included in the Act. 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’.¹⁶
36. 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 Act 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

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

¹⁵ As at November 2020, video recorded cross-examination has been rolled out to in all Crown Courts– not magistrates – in respect of vulnerable witnesses only. There is currently a test underway 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.

¹⁶ <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsofdaydomesticabuse/documents.html>

- 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 outcomes to central government. The Government will be required to produce statutory guidance to accompany the duty.
38. **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 eligibility for special measures in the civil and family courts**
39. 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 its 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.
40. **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**
41. To meet the policy objectives, two options have been considered:
- 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. It is well understood 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.

42. **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**
43. To meet the policy objectives, two options have been considered:
- a) **Option 1: Do nothing.** Case law 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, that is, 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.
44. **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.
- (n) **Extend the offence of controlling or coercive behaviour in an intimate or familial relationship to remove the co-habitation requirement**
45. To meet the policy objectives, two options have been considered:
- a) **Option 1: Do nothing.** Under this option, CCB legislation will retain the 'living together' requirement, meaning it cannot be applied in cases where the victim does not live with their ex-partner or family member. This does not meet the Government's domestic abuse objectives.
 - b) **Option 2: Amend Section 76 of the Serious Crime Act 2015 to remove the 'living together' requirement.** Under this option, the CCB offence will be extended to cover cases where the victim does not live with their ex-partner or family member. This option will support the Government's objectives to tackle domestic abuse. Extending the offence will simplify the legislative framework for tackling CCB and remove the need for police to choose between applying the CCB or stalking and harassment offence. It will also make it easier to prosecute certain post-separation controlling or coercive behaviours not readily captured in existing offences, as they will fall within scope of the CCB offence. This option will also mean that the definition of CCB reflects the new statutory definition of domestic abuse.
46. **Option 2 is the Government's preferred option.** The amendment to the CCB legislation to remove the 'living together' requirement will bring the CCB offence in line with the wider statutory definition.
- (o) **Extend the offence at s33 of the Criminal Justice and Courts Act 2015 to cover threats to disclose intimate images**
47. To meet the policy objectives, two options have been considered:

- a) **Option 1: Do nothing.** This option will leave the offence at s33 of the Criminal Justice and Courts Act 2015 unamended. Whilst there are no costs associated with this option, it does not meet the Government's objectives and leaves the s33 offence as one of disclosure.
- b) **Option 2: Extend the offence at s33 of the Criminal Justice and Courts Act 2015 of disclosing private sexual photographs or films to those other than the individual who appears in them without the consent of that individual and with the intent to cause that individual distress to include, those who threaten to post or disclose such images.** This reform strengthens the criminal law in this area and provides clarity for police and prosecutors, along with greater protection to victims of such distressing and intimidating behaviour. By adding "*threaten to*" to the s33 offence it also makes clear in what circumstances such behaviour could be lawful; s33 of the 2015 Act lists three defences for the disclosure offence.
48. **Option 2 is the Government's preferred option because** it will achieve the Government's objective of protecting those who are threatened with the disclosure of private sexual photographs of themselves and creating a clear and consistent enforcement regime for both threats and actual disclosures. There are other offences where this behaviour, in certain circumstances, may be captured.
- (p) **Inserts new sections 75A and 75B, into the Serious Crime Act 2015 to create a new criminal offence of strangulation or suffocation and to provide extraterritorial effect to the offence**
49. To meet the policy objectives, two options have been considered:
- a) **Option 1: Do nothing.** There are several existing criminal offences that relate to attempted strangulation, covering a range of seriousness from common assault and battery to attempted murder. Attempted strangulation can also be part of a course of action under the CCB offence contained within s.76 of the Serious Crime Act 2015. In addition, there is also a specific offence under section 21 of the Offences against the Person Act 1861 (the 1861 Act) which makes it an offence to:
- attempt to choke, suffocate or strangle any person, or
 - choke, suffocate or strangle a person in an attempt to render that person insensible, unconscious or incapable of resistance.
- To do nothing would mean that the current laws would apply as they do now. However, it would not address the concerns that have been raised that such cases can be difficult to prosecute, particularly where there is little, if any, visible injury to the victim at the time the incident occurs or is reported. Where no or little sign of physical injury exists, this can often make these cases difficult to prosecute.
- b) **Option 2: Create a new criminal offence of strangulation or suffocation:** By creating a new offence, with the same level of seriousness as actual bodily harm (ABH) but with a different evidential requirement to that of ABH, will enable cases of strangulation or suffocation to be easier to prosecute. The offence will also apply to incidents of strangulation or suffocation that are committed abroad, again making it easier to prosecute, where this involves a British national or a person habitually resident in England or Wales as if the offence had occurred in England or Wales.
50. **Option 2 is the Government's preferred option** as this will enable cases involving strangulation or suffocation to be prosecuted more easily.
- (q) **Amendment to the Domestic Violence, Crime and Victims Act 2004 to require that all Domestic Homicide Review (DHR) reports are shared with the Domestic Abuse Commissioner**
51. To meet the policy objectives, two options have been considered:
- a) **Option 1: Do nothing.** Under this option the reports will continue to be shared with the Home Office. The Domestic Abuse Commissioner would need to collate reports by tracking updates on over 300 local authority websites or relying on the Home Office to share the reports with

her. There are no costs associated with this option, but it means that the Domestic Abuse Commissioner does not have a formal role to play in DHRs. This could limit her ability to hold Community Safety Partnerships to account.

- b) **Option 2: Require Community Safety Partnerships to share final Domestic Homicide Review reports with Domestic Abuse Commissioner.** There are no additional costs to this as they area already required to share reports with the Home Office.

52. **Option 2 is the Government's preferred option** as it best meets the policy objectives. While it is possible the get the same outcome with Option 1, this will formally create a role for the Domestic Abuse Commissioner in the DHR process which was established prior the creation of that post. This also sends a signal that tackling domestic homicides is a priority for the Commissioner.

(r) **Place a duty on the Secretary of State to issue a perpetrator strategy within one year of Royal Assent**

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

- a) **Option 1: Do nothing.** Under this option, the Government would not be obliged to publish a perpetrator strategy.
- b) **Option 2: place a duty on the Secretary of State to issue a perpetrator strategy within one year of Royal Assent.** The Government have already committed to bring forward a holistic Domestic Abuse Strategy to tackle the domestic abuse which will outline our plans and ambitions to prevent offending as well as to protect victims and ensure they have the support they need. Setting out a strategy for the detection, investigation and prosecution of offences, assessment and management of risk (including risks associated with stalking) and reducing the risk of individuals committing further acts of abuse will form a key pillar of this work. This option will put this commitment to address perpetrators in a strategy on a statutory footing. There are no further associated costs with this as the existing resource in place for the Domestic Abuse strategy is sufficient.

54. **Option 2 is the Government's preferred option** as it solidifies in statute work that the Government has committed to delivering.

(s) **Clarify that the circumstances in which a court can bar an individual from making applications under the Children Act 1989 without the court's permission include domestic abuse circumstances**

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

- a) **Option 1: Do nothing.** The section 91(14) power is already available, and it is broad. It does not include any detail as to the circumstances in which such barring orders can or should be used. If the law remains as it is, with no clarification as to the circumstances in which this power can and should be considered, then the current reported small number of orders being made in domestic abuse circumstances, due to restrictive application by the courts would likely continue.
- b) **Option 2: Clarify the law on section 19(14) with an amendment to the Children Act 1989.** By inserting a new clause it can be made clearer to the courts and practitioners that section 91(14) 'barring orders' are available where a further application would pose a risk of harm to a child or a parent victim, in particular where that application could constitute further domestic abuse. Evidence from the MoJ's expert panel's report 'Assessing Risk of Harm to Children and Parents in Private Law Children Cases' made clear that, whilst barring orders can be an effective measure, they are not being used sufficiently to prevent perpetrators from continuing their abuse through court applications under the Children Act 1989.

56. **Option 2 is the Government's preferred option.** This clarification will make it clearer that barring orders are available to parents and children to protect them where further proceedings would risk causing them harm, particularly where proceedings could be a form of continuing domestic abuse.

(t) Prohibition on charging for the provision of medical evidence of domestic abuse

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

- a) **Option 1: Do nothing.** Although there is no substantive, recent evidence of how many - if any - people are being charged, it is the Government's view that if nothing is done, there is still a chance this could happen. If so, the Government (and society) would not know where or how frequently this is happening which would be unfair to victims.
- b) **Option 2: Prohibit Charging:** To meet the policy objective as outlined the Government proposes to legislate to prohibit charging in a general practice setting from charging for the preparation and provision of these letters by relevant health professionals for those who have been seen under NHS contracts. The intended effect of this change is to prevent victims of domestic abuse from being at a financial disadvantage or prevented from obtaining such a letter due to its cost.

58. **Option 2 is the Government's preferred option** as it will help to ensure access to letters to support legal aid applications for victims of domestic abuse, regardless of their financial position.

(u) Report on the use of child contact centres in England

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

- a) **Option 1: Do nothing.** There is limited evidence regarding the volume of referrals to unaccredited child contact centres, and any risk these centres pose to adults or children. It is the Government's view that if nothing is done, it is possible that child contact centres may be set up and managed by individuals or organisations who are not subject to statutory regulation and do not obtain accreditation through the National Association of Child Contact Centres (which includes enhanced DBS checks). This creates the possibility that contact centres may operate with limited safeguarding measures. This may potentially place parents at risk of domestic abuse when attending or dropping off a child at a contact centre, and potentially placing children at risk of other harm. Without undertaking a review and producing a report, the scale of risk will continue to be unknown.
- b) **Option 2: Produce a report on the use of child contact centres:** To meet the policy objective as outlined, the Government proposes to prepare and publish a report about the extent to which individuals when they are using contact centres in England, are protected from the risk of domestic abuse or, in the case of children, other harm.

60. **Option 2 is the Government's preferred option** as it will develop the evidence base to help the Government ascertain the extent to which individuals are protected from the risk of domestic abuse or, in the case of children, other harm, when using child contact centres.

(v) To lay before Parliament a review into a data-sharing firewall between police and Immigration Enforcement for migrant victims' crime

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

- a) **Option 1: Do nothing.** Under this option, the Government would not be obliged to publish a firewall review or code of practice.
- b) **Option 2: Publish a report on the HMICFRS firewall review and issue a data-sharing Code of Practice between police and Immigration.**

62. **Option 2 is the Government's preferred option** as it will help to ensure that it is meeting the requirement to respond to the HMICFRS super-complaint recommendation on the firewall. It will also help to ensure migrant victims and the support sector are aware of how personal data will be used by Immigration Enforcement when shared by policing partners.

E. Appraisal

General assumptions and data

63. 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 (**Option 2**). The costs and benefits of each measure in **Option 2** are compared to the 'base case' option (Option 1: 'Do nothing'). As it is defined as 'doing nothing' that is, where the proposed measures in the Act are not introduced, then the costs and benefits of Option 1 are zero. That is why **Option 2** is compared to Option 1.
64. For all 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 309-312). 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.
65. Since the Bill IA was published in July 2020¹⁷, a number of costs have been added or estimated, based on either new provisions which have since been added to the Act, or additional data which has been obtained since the July 2020 IA. Where costs have been updated since the July 2020 IA this has been identified in the paragraphs below.
66. All monetised costs have been included in 2021/22 prices. Where these estimated costs were based on different price years, these have been adjusted according to the latest GDP deflator¹⁸. Present value (PV) costs¹⁹ have been estimated over a 10-year appraisal period from 2021/22 to 2030/31, discounted by the social rate of discount, 3.5 per cent per year²⁰. Unit costs have been provided by each justice system agency and details on these costs are provided in the relevant sections.
67. Optimism bias has been applied to estimated costs²¹, due to the various cost uncertainties with the measures, and to counterbalance the psychological tendency among appraisers to undervalue costs of policy measures²². 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. The level of optimism bias is detailed in the cost sections (below) under each measure. 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.
68. The main identified drivers of estimated costs to the justice system associated with measures in the Act are prison place impacts of measures (c), (d) and (n), legal aid payments of measures (c), (d), (f) and (n) and HMCTS resource costs of measure (c), (d) and (n).
69. Measures (c), (e) and (n) present a range of estimates, recognising that there are areas where assumptions are uncertain.
70. 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. Some of the modelling assumptions use unpublished MoJ data but are the best estimates available.

¹⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904498/ANNEX_A-20200708_Domestic_Abuse_Bill_Enactment_IA_July_2020-_FINAL.pdf

¹⁸ <https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-march-2021-quarterly-national-accounts>

¹⁹ Costs do not include costs associated with measure (i), as the costs of this measure have assessed elsewhere.

²⁰ <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

²¹ Costs do not include costs associated with measure (i)

²² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938046/The_Green_Book_2020.pdf (page 48)

71. 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'.²³ The NPSV of this option is therefore not included in the overall NPSV of the preferred option.

(a) Introduce a statutory definition of domestic abuse

Costs of Measure (a)

Monetised costs

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

Non-monetised costs

73. 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.
74. 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

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

Non-monetised benefits

76. 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.
77. 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)

78. 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

79. The budget for the Domestic Abuse Commissioner is £1.05 million per year (£1m from the Home Office and £50,000 from the Ministry of Justice). 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

²³ <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsdomesticabuse/documents.html>

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 Act 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. The £1.05 million annual cost of this measure means that over a 10-year appraisal period from 2021/22, the estimated Net Present Cost (NPC) is £9.0 million (PV).

Non-monetised costs

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

Benefits of Measure (b)

Monetised benefits

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

Non-monetised benefits

82. 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 escalating²⁴.
83. 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 abuse²⁵. 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.
84. 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.
85. The Domestic Abuse Commissioner will produce a report on the provision of community-based services, and map services of support for victims of domestic abuse, their children, and services for perpetrators of abuse. This will help to better understand which services exist in order to address the post-code lottery in support, and bring greater consistency in the response to domestic abuse across England and Wales.

Net quantifiable impacts of Measure (b)

86. The estimated quantified net impact of this measure, assessed in isolation, is £9.0 million (PV) over 10 years. The cost per year is £1.05 million.

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

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

- Process change²⁶ 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

²⁴ 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).

²⁵ 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/>

²⁶ 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.

of positive requirements, notification requirements, Electronic Monitoring (EM) and criminalisation of breach).

- 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).
88. 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 2025/26 onwards. Where average annual figures are shown they are for full roll-out.
89. 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 EM to protective orders.
 - c) Criminalising breach of DAPOs.
90. Of the changes outlined above, criminalisation of breach (c) accounts for the largest proportion of estimated impacts associated with process change.
91. The number of protective order applications could increase through the broadening of the application routes, that is, by allowing specified parties to apply on behalf of victims²⁷ 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.
92. 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 113²⁸.

Costs of Measure (c)

Monetised costs

Process change

93. Where possible, the monetised costs of each process change listed in paragraph 89 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 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 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’.

²⁷ 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.

²⁸ 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

Positive requirements

94. Due to the lack of evidence, modelling has assumed a 32-percentage point increase in the proportion of DAPOs²⁹ with a positive requirement due to the process change. Applying this assumption to the relevant subset of baseline protective order volumes suggests approximately 16,200 DAPOs could have a positive requirement.
95. Where a positive requirement takes the form of attendance at a perpetrator programme, costs will be dependent both on the nature of the programmes made available and also those selected in individual cases. There is considerable variance in these costs, which will be considered further as the programmes are selected for use within the DAPO pilot. An example of a perpetrator programme is CARA, a short awareness raising programme of workshops (as trialled by Hampshire Constabulary³⁰). Estimated agency impacts associated with the provision of additional programmes using CARA as a proxy are given below:
- Police: £75,000 per year (assuming that 4% of programmes are funded by the police and including 15% optimism bias)
 - Other: £1.8m per year (assuming that 96% of low-cost programmes are funded by the other agencies and local commissioners and including 15% optimism bias). Without a better understanding of the funding split of these perpetrator programmes, analysis has grouped together these impacts and allocated them to 'Other groups'³¹.
 - 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. The average cost of a police officer is £40 per hour³². Scaling up across all non-police led positive requirements, this results in a total cost of £1.1 million per year to the police (including 15% optimism bias).
96. However, while this IA assumes the adoption of a lower-cost solution, the cost of perpetrator programmes remains highly uncertain as the exact nature and use of the programmes to be employed is yet to be determined. For example, a further example of a perpetrator programme is the Building Better Relationships programme (BBR), a programme for male perpetrators of domestic abuse. This has a unit cost per perpetrator of approximately £4,000. Different solutions will be appropriate to different circumstances. The Government will be undertaking further work to assess the most appropriate solutions, balancing benefits against cost, in reaching final decisions on the programmes to be made available. Furthermore, while this IA apportions costs between the police and others as described above, this will also be considered further alongside the programmes to be used as commissioning mechanisms are developed.
97. Another example of a positive requirement is Electronic Monitoring. The Act 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, that is, exclusion zones or movements. Additionally, other technologies such as alcohol monitoring or proximity monitoring may become available in the future.

²⁹ 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).

³⁰ 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>

³¹ 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.

³² Home Office internal estimates on police hourly costs. Hourly cost for Sergeant and below, includes salary, expenses, regional allowance, training and employer contributions to pension and national insurance. The estimates were calculated using the Annualised Survey of Hours Earnings (ASHE), Chartered Institute of Public Finance and Accounting (CIPFA) Police Actuals and The National Police Chiefs Council (NPCC) Mutual Aid Rates. Estimates use the latest figures available for the various inputs and are updated to 2021/22 prices

98. 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. There is no expectation that RF tags will 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, it would be possible to find that for a DAPO, the use of location monitoring to manage an exclusion zone or monitor movements is the larger proportion of orders.
99. For the purposes of this IA and using information from MoJ, it is assumed that 2 per cent of DAPOs will require EM. The annual cost to HMPPS is estimated to be £1.1 million.
100. The use of EM will also lead to increased police investigation cost, as EM breaches will need to be investigated. Assuming 2 per cent of DAPOs will require EM conditions, and assuming a 30 per cent breach rate. The annual cost is estimated to be £0.15 million per year (assuming a domestic incident police response³³ and the subsequent police actions undertaken following the additional 300 breaches).
101. 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 and 5) keeping in touch with the perpetrator as required, including receiving information from the perpetrator if their home address changes or if they cease to have a home address.

Notification requirements

102. 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. The average cost per police officer is £40 per hour³⁴. This results in an estimated 10,100 notifications at an annual cost of around £80,000 per year, assuming that it takes 10 minutes (0.16 hrs) of police time per notification.

Criminalising breach of DAPOs

103. 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 112.
104. 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 24 per cent and 20 per cent respectively³⁵. 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 2,000 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 in this way at this stage. The location of hearings, between the magistrates' courts and Crown Courts, is based on the split for proxy offences

³³ The domestic incident cost of £440 (2016/17 prices) has been taken from the *Economic and Social Costs of Domestic Abuse* publication, updated to 2021/22 prices.

³⁴ Home Office internal estimates on police hourly costs. Hourly cost for Sergeant and below, includes salary, expenses, regional allowance, training and employer contributions to pension and national insurance. The estimates were calculated using the Annualised Survey of Hours Earnings (ASHE), Chartered Institute of Public Finance and Accounting (CIPFA) Police Actuals and The National Police Chiefs Council (NPCC) Mutual Aid Rates. Estimates use the latest figures available for the various inputs and are updated to 2021/22 prices

³⁵ Data provided to the Home Office by Her Majesty's Inspectorate of the Constabulary, Fire and Rescue Services for year ending September 2020 showed a breach rate of 24 per cent for DVPOs. In the absence of breach data on occupation orders, the breach rate of non-molestation orders has been assumed, based on the CPS Violence against Women and Girls Report 2018/19

(for example, breach of a non-molestation order). Incorporating this split allows the 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)³⁶.

105. 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 2,000 hearings in the criminal courts. Contest rates represent the proportion of proceedings 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).
106. 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 cent³⁷ of defendants in the Crown Court will receive criminal legal aid representation.
107. 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 2,000 breached protective orders results in an additional estimated 1,500 convictions³⁸. Of those convicted, modelling assumes 16 per cent receive custodial sentences, including supervision on licence, 47 per cent receive community or suspended sentences with the remaining receiving other disposals (for example, a fine).
108. Custodial sentences: Assuming the disposal distribution of non-molestation orders as a proxy, this could result in approximately an additional 240 custodial sentences³⁹. The Average Custodial Sentence Length (ACSL) for the proxy offence is approximately five months⁴⁰. Assuming that each offender receiving a custodial sentence spends on average two and a half months in custody (based on spending half of the five-month sentence in custody and the rest on community supervision), there will be an estimated impact to HMPPS of approximately 50 additional FTE prison places per

³⁶ Based on the 2016 'prosecutions and convictions tool' published by CJS statistics.

³⁷ 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

³⁸ 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>

³⁹ 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.

⁴⁰ Based on the published December 2016 'criminal justice statistics outcomes by offence tool'.

year. At an average yearly cost of approximately £45,000 per place, this will equate to around £2.4 million per year^{41,42}.

109. 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 five 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 additional 250 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 CRCs⁴³).
110. Community sentences: Using the proxy offence (breach of a non-molestation order), criminalisation of breach could result in an additional 710 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 £3.1 million per year (including pre assessments conducted by the NPS and management of offenders by both NPS and CRCs⁴⁴).
111. To summarise, applying the disposal distribution of the proxy offence results in an estimated 240 custodial sentences, 710 community/suspended order sentences and a remaining 560 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.
112. The estimated agency impacts of criminalising breach are summarised as follows:
 - HMCTS (crime): £1.4 million per year associated with 2,000 additional breach proceedings.⁴⁵
 - CPS: £0.5 million per year⁴⁶ associated with the pre-charge advice and contest rates for an additional 2,000 breach proceedings.
 - LAA (crime): £0.9 million per year (applying the relevant internal unit costs⁴⁷ to an estimated 1,100 additional breach proceedings with LAA criminal representation).
 - HMPPS (including CRCs): £6.3 million per year (including 50 additional prison places excluding capital costs, pre-assessments by the NPS and supervision of offenders by the NPS and CRCs).

Scope widening

113. 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:

⁴¹ Based on published costs of annual prisoner places:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929417/costs-prison-place-costs-prisoner-2019-2020-summary.pdf

⁴² 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.

⁴³ 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.

⁴⁴ 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.

⁴⁵ Applying internal unit costs for 'public order offence' trials in the magistrates' and Crown Court respectively.

⁴⁶ 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.

⁴⁷ 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.

Application

114. 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 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.
115. There would be additional agency costs associated with processing and supporting applicants for an additional 5 to 10 per cent estimated increase in applications.
116. 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 then Draft Bill IA, using more up to date data provided by five police forces instead of historic data from the DVPO pilot.
117. This data indicates a unit cost of approximately £400 to £900 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 contested⁴⁸. 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.
118. The estimated volume of DAPO applications made by the police has also been updated. The June 2020 Bill IA assumed that the volume of DAPO applications made by the police would be between 8,600 and 25,500 DAPOs per year, which represented an additional 2,900 to 19,800 orders per year compared to the baseline. 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, as per the June 2020 Bill IA, it is assumed that the police will apply for between 20 and 50 per cent of all DAPOs⁴⁹. It is also assumed that there will be a 5 to 10 per cent increase in overall applications. In this IA, it is assumed that the volume of DAPO applications made by the police will be between 9,900 and 25,800 DAPOs per year, which represented an additional 1,400 to 17,400 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 £0.9 to £9.5 million per year after the pilot period.
119. 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 Social Value (NPSV) 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 £793 for a contested application. The court fees paid by the police for the additional DAPO applications are estimated at £0.5 million to £8.7 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 NPSV calculations. This fee would not be recoverable from the person against whom the order is made.
120. During the pilot period total court fees for the police are estimated at £0.4 to £1.2 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

⁴⁸ It is assumed that 15 per cent of DVPO applications are currently contested, based on data provided by one police force.

⁴⁹ DAPO admin and application costs to the police will change considerably dependent on the actual proportion of DAPO applications made by the police.

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.

121. HMCTS: Currently, there is no single protective order available across the criminal, family and civil courts. The DAPO will change this as it available across these court jurisdictions. 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 court⁵⁰.
122. The estimated increase in applications to a civil court⁵¹ when DAPOs are implemented has been apportioned to each of the current protective orders based on their contribution to the total baseline volume⁵². HMCTS admin unit costs (excluding estates and overheads) have been applied, to reflect the resource time required for this activity.
123. 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 third party specified in regulation or 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.
124. 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 £0.7 million per year. Unit costs of administration resource time have been applied⁵³.
 - Police: £0.9 to £9.5 million per year. Admin cost of the police supporting DAPO applications.
 - Police: £0.5 to £8.8 million per year. This is a transfer payment from the police to the courts so is not included in NPSV calculations, but it reflects the total cost to police after the pilot of making DAPO applications.

Court hearing

125. 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.
126. 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 applications⁵⁴, the estimated impact of criminal representation to the LAA associated with approximately 40 to 80 additional defendants is estimated to be less than £0.1 million per year.⁵⁵
127. 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

⁵⁰ Currently, DVPOs are processed in the magistrates' courts whilst non-molestation and occupation orders are processed in the family courts.

⁵¹ 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.

⁵² In mapping the 2019/20 baseline order volumes to the proposed DAPO framework, the volumes of DAPOs made in a civil courts are made up of: non-molestation orders (76 per cent), DVPOs (20 per cent), occupation orders (3 per cent) and restraining orders upon acquittal (1 per cent).

⁵³ Unit costs represent staff time only, excluding estates and overhead costs.

⁵⁴ Based on MoJ analysis of DVPO pilot data.

⁵⁵ 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.

applicants receive civil representation⁵⁶ (including assistance with the application before the court hearing). Modelling considers the estimated impact to the LAA of civil representation in approximately 800 to 1,600 additional applications (associated with an additional 5-10 per cent in applications respectively).

128. The estimated agency impacts associated with a 5-10 per cent increase in court hearings are as follows:

- HMCTS: £0.3 to £0.6 million per year. Unit costs of judicial resource time have been applied⁵⁷.
- LAA: £2.0 to £3.9 million per year.

Conditions

129. Applying the same assumptions as per paragraph 94 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.

130. Based on the estimated annual increase in numbers of orders granted once DAPOs are implemented, there could be an estimated additional 800 to 1,600 orders per year with positive requirements attached as a condition. The impacts associated with the increased application of positive requirements are:

- Police: £4,000 to £8,000 per year from notification requirements, and £4,000 to £7,000 for funding 4% of additional perpetrator programmes (including 15% optimism bias).
- Others: £0.09 to £0.18 million per year for funding 96% of additional perpetrator programmes (including 15% optimism bias).
- HMPPS: £0.05 to £0.11 million per year (Electronic Monitoring).

Breach

131. 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 assumptions as those outlined in paragraphs 103 to 111. Estimated agency impacts associated with additional instances of breach are outlined below⁵⁸:

- Police: £0.5 to £1.0 million per year (assuming a domestic incident police response⁵⁹ and the subsequent police actions undertaken following the additional 700 to 1,500 estimated breaches⁶⁰).
- HMCTS : £0.3 to £0.7 million per year (assuming the average breach rates of the current orders that would fall under the DAPO made in a civil context and the restraining order upon conviction, translating into the DAPO made in the criminal court upon conviction of an offence there could be an estimated additional 600 to 1,200 breach proceedings progressing through the criminal courts annually⁶¹). 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: £0.2 to £0.3 million per year (assuming the pre-charge advice consultation and contest rates described above, as provided by the CPS, to the estimated additional 600 to 1,200 breach proceedings).
- LAA: £0.3 to £0.7 million per year (assuming criminal representation for 50 per cent and 93

⁵⁶ 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.

⁵⁷ Unit costs represent staff time only, excluding estates and overhead costs.

⁵⁹ 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.

⁶⁰ The domestic incident cost of £440 (2016/17 prices) has been taken from the Economic and Social Costs of Domestic abuse publication.

⁶¹ 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

per cent of defendants tried in the magistrates' court and Crown Court respectively for an estimated additional 400 to 700 breach proceedings, most of which are tried in the magistrates' courts⁶²).

- HMPPS: £2.9 to £5.8 million per year⁶³ (including an additional 30 to 50 prison places⁶⁴, supervision of an additional 130 to 250 offenders on licence and an additional 190 to 380 offenders receiving community and suspended sentences). Costs include CRC⁶⁵ payments.

Evaluation of the DAPO pilot

132. There will also be costs associated with evaluating the DAPO pilot scheme. This has been estimated using the costs of the DVPO pilot evaluation⁶⁶ as a basis, and uprating to 2021/22 prices. This equates to a one-off cost of around £290,000 to government. For the purpose of this IA, it is assumed that these costs will be incurred in 2024/25 but this depends on the duration and launch date of the pilot.

Non-monetised costs

Process change and scope widening

133. 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.

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)

134. 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.

135. 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.

Criminalising breach of DAPOs

136. 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 a criminal offence (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

137. 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 third parties specified in regulation person or 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 in regulation as third parties that would not require leave of the court to

⁶² 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.

⁶³ 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.

⁶⁴ 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.

⁶⁵ 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.

⁶⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/260897/horr76.pdf

apply for a DAPO (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.

138. 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.
139. 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

140. It has not been possible to monetise the process change benefits of this measure, due to the lack of evidence on the potential impact of DAPOs on the escalation of abuse and revictimisation and reoffending.

Scope widening

141. It has not been possible to monetise the scope widening benefits of this measure, due to the lack of evidence on the potential impact of DAPOs on the escalation of abuse and revictimisation and reoffending.

Non-monetised benefits

Process change

142. Victims and the justice system: The introduction of DAPOs will facilitate a more effective 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.
143. Victims (confidence in the justice system): See overall non-monetised benefits.
144. 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 evaluation⁶⁷ 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 effects⁶⁸. Any reductions in revictimisation and reoffending could reduce emotional and physical costs to victims, their children and society.
145. Those living with, or close to, victims (specifically children witnessing domestic abuse): The 2017 Office for National Statistics (ONS) domestic abuse outcomes report⁶⁹ 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

⁶⁷ <https://www.repository.cam.ac.uk/handle/1810/266887>

⁶⁸ 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.

⁶⁹ 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/>

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.

- 146. 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.
- 147. 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 131.

Scope widening

- 148. 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)

- 149. 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 (£ millions, 2021/22 prices)

CJS agency	(2) Estimated economic cost from process change, £ million	(3) Estimated economic cost from increase in scope (5%)	(4) Estimated economic cost from increase in scope (10%)	Total cost range (£ million)
Police	1.4	1.5	10.7	2.9 - 12.1
CPS	0.5	0.2	0.4	0.7 - 0.9
HMCTS	1.6	1.3	2.6	2.8 - 4.1
LAA	1.1	2.6	5.3	3.7 - 6.4
HMPPS (including CRCs)	8.5	3.4	6.8	11.9 - 15.3
Other	1.8	0.1	0.2	1.9 - 1.9
Total	14.9	9.1	26.0	23.9 – 40.7

Note: Optimism Bias of 15 per cent included. HMPPS impacts include CRC payments. In the cost range column, columns 2 and 3 are added and in the upper cost range figure, columns 2 and 4 are added. Figures may not sum due to rounding.

- 150. The estimated present value cost (NPC) of this policy is £112 to £193 million (PV), with a central estimate of £152 million, over 10 years, assuming a 2-year pilot beginning in 2023/24. The estimated quantified net cost to society of this measure, assessed in isolation, is between £23.9 and £40.7 million per year after the pilot period, depending on the assumed increase in protective order applications.

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

151. 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.
152. A one-off training and familiarisation cost will likely be incurred by the police, CPS and judiciary. It is expected that these will 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.
153. A list of 14 offences in England and Wales, over which the Government believes it is necessary to take (or extend existing⁷⁰) ETJ has been used in this analysis. The relevant offences are: (1) putting people in fear of violence; (2) CCB in an intimate or 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.
154. Offences (1), (8), (9), and (10) have not been included in the analysis as they are not present in the data supplied by Prisoners Abroad⁷¹. 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)

Monetised costs

155. 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*" publication⁷² and a second supplied by the charity Prisoners Abroad (PA). Both have their limitations as set out in the 'Risks and Assumptions' section below.
156. 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:
- a) 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.
 - b) The likely proportion involving nationals from England and Wales⁷³.
 - c) The proportion of arrests which lead to court proceedings⁷⁴.
157. 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

⁷⁰ 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.

⁷¹ <https://www.prisonersabroad.org.uk/>

⁷² <https://www.gov.uk/government/statistical-data-sets/helping-british-nationals-abroad-2016>

⁷³ <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality>

⁷⁴ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesbulletintables>

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.

158. The number of cases within each type of offence is then multiplied by an estimated cost for that 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.
159. 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).
160. For England and Wales, the NPC of this measure is £62 million, over 10 years. the additional cases are estimated to cost a total of £7.4 million per year in 2021/22 prices. 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 estimated⁷⁵ at:
 - HMCTS: £0.8 million.
 - CPS: £0.3 million.
 - LAA: £1.7 million.
 - HMPPS: £4.7 million, of which £4.4 million are prison costs⁷⁶ and £0.3 million are probation costs.
161. 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 £367,000 per year, and the costs to the Scottish Prison Service are estimated at £468,890 per year. The overall annual cost to the Scottish criminal justice system is estimated at £0.8 million in 2021/22 prices.
162. There is additionally a cost to the Northern Ireland CJS but this has not been estimated as this cost is expected to be small.

Non-monetised costs

163. 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.
164. 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.
165. 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.

⁷⁵ These are rounded numbers and so sums may not add to the total presented.

⁷⁶ 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.

Benefits of Measure (d)

Monetised benefits

166. It has not been possible to monetise any benefits arising from this measure, due to the lack of relevant data.

Non-monetised benefits

167. 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)

168. Extending ETJ over relevant offences, as outlined above, is estimated to have a NPC of £69 million (PV) over 10 years⁷⁷. The cost per year is around £8.3 million (2021/22 prices).

(e) Domestic Violence Disclosure Scheme

169. 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

170. 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.

171. Recent data on the use of the DVDS is published by the ONS⁷⁸. Data on the cost per request were published for Wiltshire police force in 2012/13 following the pilot assessment of the policy⁷⁹. 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.⁸⁰

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

- £400 for each disclosure from the 'right to ask'⁸¹ (where the police disclose information via a request from a member of the public)
- £360 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)

173. ONS data shows that across all police forces in England and Wales during the year to the end of March 2020 there were 8,591 (data from 41 police forces) and 11,556 (data from 42 police forces) applications under 'right to know' and 'right to ask' and there were 4,479 and 4,236 disclosures respectively. These figures have been increased to account for all police forces, using unpublished HMICFRS data. 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.

⁷⁷ The estimated NPC is calculated using 2021/22 as the base year, with implementation expected in June 2021 (in financial year 2020/21). Accordingly, the NPC is calculated over 10 years and incorporates 9.75 years of estimated costs.

⁷⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseandthecriminaljusticesystemenglandandwales/november2020>

⁷⁹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260894/DVDS_assessment_report.pdf - Page 16.

⁸⁰ The assumed resources regarding decision making forums have been refined from the Domestic Abuse Bill Consultation Impact Assessment.

⁸¹ <https://www.derbyshire.police.uk/news/derbyshire/news/campaigns/2020/december/claires-law--your-right-to-know-if-someone-has-an-abusive-past/> – Explanation of 'right to ask' and 'right to know'

174. Including optimism bias of 15 per cent, multiplying the change in use by the cost to police gives an additional annual cost between £0.3 and £0.7 million. The estimated present value cost (NPC) of this policy is £2.5 to £5.1 million (PV) over 10 years, assuming introduction in 2022/23.

Non-monetised costs

175. 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 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

176. It has not been possible to monetise any benefits arising from this measure, due to the lack of evidence on DVDS on the protection to potential victims of domestic abuse.

Non-monetised benefits

177. 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)

178. The estimated present value cost (NPC) is £2.5 to £5.1 million (PV), with a central estimate of £3.8 million over 10 years. The cost per year in the central scenario is around £0.5 million (2021/22 prices).

(f) To make provision in primary legislation for the prohibition of cross-examination in person in limited, 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 such circumstances

Costs of Measure (f)

Monetised Costs

179. 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 £9.2 million per year in England and Wales, excluding VAT. This is based on an estimate of potential volumes, using family 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 finalised, so for the purposes of this IA the best estimate of what a fee scheme might entail has been used. As details of implementation are to be finalised, these costs should be treated as indicative.

Non-Monetised Costs

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

181. 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.

182. 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

183. This will see a new revenue stream created for providers of legal representation. The total financial benefit to providers is estimated to be approximately £9.2 million per year, which is equal to the estimated cost of the measure to the MoJ. This is a transfer payment, so this is not included as an economic benefit.

Non-Monetised Benefits

Witnesses in family and civil proceedings

184. The main benefit of measure (f) is that the court would have (in limited, 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 8,200 instances per year could benefit from an appointed legal representative in the family court, plus some additional instances in the civil courts, which we have not been able to quantify robustly. 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 309 to 312.

Net quantifiable impacts of Measure (f)

185. Prohibiting the cross-examination of victims, as outlined above, is estimated to have a NPC of £59 million (PV) over 10 years⁸². The cost per year is around £9.2 million (2021/22 prices).

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

Costs of Measure (g)

Monetised Costs

186. The pilot scheme will involve domestic abuse offenders who are high risk of harm and on licence. The treatment group will be polygraphed and the control group will not be polygraphed.
187. The pilot will run for three years (spread across four financial years). Implementation of the pilot is expected in July 2021 and will run until July 2024.

Table 2: Average annual costs associated with pilot scheme, £000s

Costs incurred by NPS (HMPPS)	Average annual cost for the pilot scheme ⁽¹⁾
Staff	320
Training	20
Equipment	10
Ongoing costs	40
Travel and subsistence	50
Total	450

Source: Ministry of Justice, own estimates. Note (1) Figures may not sum due to rounding.

188. The cost to the National Probation Service of running the pilot is £0.5 million per year. The 10-year NPC is £1.3 million.

⁸² The estimated NPC is calculated using 2021/22 as the base year, with implementation expected in April 2022 (in financial year 2022/23). Accordingly, the NPC is calculated over 10 years and incorporates 9 years of estimated costs.

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

Non-monetised Costs

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

Benefits of Measure (g)

Monetised benefits

191. It has not been possible to identify any monetised benefits associated with this measure, due to lack of evidence to suggest how much this would improve the risk management of offenders.

Non-monetised benefits

192. Polygraphing domestic abuse offenders who are on licence, should generate a higher quality and quantity of offender licence monitoring information for agencies such as the police and social services. This should improve risk management of these offenders.

Net quantifiable impacts of Measure (g)

193. Costs are estimated to be £1.3 million (PV) over 10 years. The cost per year is around £0.5 million (2021/22 prices).

(h) Automatic eligibility of special measures in criminal court

194. 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.

195. 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 court⁸³. 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.

196. 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.

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

198. A detailed audit has taken place looking at facilities in the family and criminal courts. This will inform our understanding 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. This information was used to consider whether there are gaps in special measures and identify any additional costs associated with implementing this measure.

Costs of Measure (h)

Monetised costs

199. It has not been possible to monetise the costs associated with measure (h), as it has not been possible to estimate the number of cases of individuals who, in the absence of automatic eligibility, will not have applied and been considered eligible for special measures.

⁸³ 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.

Non-monetised costs

Screening a witness from seeing the defendant

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

Evidence given by live link

201. 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

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

Removal of wigs and gowns

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

Video recorded cross-examination and evidence

204. 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 Act and could create additional costs for HMCTS.

205. Pre-recorded evidence is usually taken from the video recorded interview of the witness undertaken in accordance with Achieving Best Evidence guidance⁸⁴. As such, this policy measure may impose additional costs on police forces.

206. 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

207. It has not been possible to monetise the benefits associated with measure (h), as it has not been possible to estimate the number of individuals who, in the absence of automatic eligibility, will not have applied and been considered eligible for special measures.

Non-monetised benefits

208. 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 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 309 to 312.

209. 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.

⁸⁴ https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/best_evidence_in_criminal_proceedings.pdf

(i) Protect security of tenure for domestic abuse victims

210. 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'⁸⁵.

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

211. 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. Tier one local authorities must keep under effect of the strategy on the provision of other local authority support in its area. The duty will also place a requirement on tier two authorities to cooperate with lead authorities in exercising its duty.

212. 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 providing a safe place to stay for survivors and victims that are fleeing domestic abuse. The different types of safe accommodation will be specified in regulations, supported by statutory guidance.

213. 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):

- 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).
- Support with the day-to-day running of the service, for example, scheduling times for counselling sessions, group activities etc.
- Advocacy support – development of personal safety plans, liaison with other services (for example, GPs and social workers, welfare benefit providers).
- 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.
- Specialist support for victims with protected characteristics and / or complex needs, for example, translators and interpreters, faith services, mental health advice and support, drug and alcohol advice and support, and immigration advice.
- Children's support – including play therapy and child advocacy.
- Housing-related support – providing housing-related advice and support, for example, securing a permanent home and advice on how to live safely and independently.
- Counselling and therapy for both adults and children, including emotional support.

Costs of Measure (j)

Monetised costs

214. The main monetised cost would be 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 two authorities would incur costs associated with co-operating with tier one authorities in the fulfilment of that duty.

⁸⁵ <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsdomesticabuse/documents.html>

215. In 2020, MHCLG engaged with local authorities and service providers in estimating the costs of the new duty. On the basis of this evidence, Local authorities were allocated £124.5 million for the 2021/22 financial year to meet the cost of the new statutory duty. Assuming the same annual cost in real terms for meeting the duty in future years, we estimate a total present value cost of £1,072 million over 10 years.

Benefits of Measure (j)

Monetised benefits

216. It has not been possible to monetise the benefits associated with this measure due to the lack of appropriate data on the outcomes achieved by safe accommodation based support services. However, the monetised benefits have the potential to be substantial.

Non-monetised benefits

217. It is anticipated that there is potential for significant benefits to society from this measure. The Home Office report on the economic and social costs of domestic abuse⁸⁶ 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.⁸⁷

Net quantifiable impacts of Measure (j)

218. Costs are estimated to be £1,072 million (PV) over 10 years. The cost per year is around £124.5 million (2021/22 prices).

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

Costs of Measure (k)

Monetised costs

219. It has not been possible to monetise the costs associated with measure (k), as there is no data which allows for a reliable estimate of the number of witnesses or civil trials which will be affected.

Non-monetised costs

220. The non-monetised costs of measure (k) are likely to be similar to the costs of special measures described in paragraphs 200 to 206 above.

Benefits of Measure (k)

Monetised benefits

221. It has not been possible to monetise the benefits associated with measure (k), due to the lack of data on trials that would be affected.

Non-monetised benefits

222. Initial internal analysis by MoJ indicates that between 1,000 to 3,000 civil trials per year might be impacted. These are, however, preliminary estimates only and would require further analysis once the reforms are in place.

223. Making the 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.

⁸⁶ Oliver, R., Alexander, B., Roe, S. and Wlasny, M. (2019) *Economic and Social Cost of Domestic Abuse*. London: Home Office

⁸⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772180/horr107.pdf

(I) 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 (I)

Monetised costs

224. 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.
225. 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.
226. Using published statutory homelessness statistics (HCLIC)⁸⁸, it was possible to estimate the increase in households owed the main duty as a result of this change. The unpublished costs of Temporary Accommodation (TA) research was used to attach an annual net cost of accommodating the additional number of households that would be owed a main duty under this change. A net cost was used as a measure of the additional housing costs of TA placements relative to other types of accommodation. It was assumed that households stay in temporary accommodation for one year, and unit costs rise in line with inflation. It was estimated this would cost about £3 million per year, giving a present value cost of £26 million over 10 years.

Non-monetised costs

227. Local authorities undertake in-depth interviews with every homeless applicant to establish whether the household is legally homeless, eligible for assistance and not intentionally homeless. As part of this, local authorities may ask victims to outline the abuse they have 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 these individuals would no longer be eligible for accommodation from the local authority. To mitigate this risk, draft updates to the Homelessness Code of Guidance have been made. This should clarify how local authorities should seek to evidence whether someone is a victim of domestic abuse.
228. 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. Local 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. A full NBA has been undertaken, which has assessed the cost of the new duty to provide local authorities with the funding to meet the additional cost of emergency accommodation whilst settled housing is obtained.

Benefits of Measure (I)

Monetised benefits

229. The benefits depend on where people are accommodated currently, in the absence of this intervention, and the consequences of these accommodation outcomes. It has not been possible to estimate monetised benefits associated with this measure, because there is no information on accommodation outcomes for people not currently being housed under a main duty.

Non-monetised benefits

⁸⁸ <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness>

230. Accommodation security for victims seeking to flee abuse.
231. 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 (£47 billion). 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.
232. This intervention could also reduce rough sleeping for victims of domestic abuse, which is likely to have significant social and fiscal costs.

Net quantifiable impacts of Measure (l)

233. Costs are estimated to be £26.7 million (PV) over 10 years. The cost per year is around £3.1 million (2021/22 prices).

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

Costs of Measure (m)

Monetised costs

234. It has not been possible to identify any monetised costs 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

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

Benefits of Measure (m)

Monetised benefits

236. It has not been possible to identify any monetised benefits associated with this measure, due to lack of available data.

Non-monetised benefits

237. 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.

(n) Extend the offence of controlling or coercive behaviour in an intimate or familial relationship to remove the co-habitation requirement

Costs of Measure (n)

Monetised costs

Prevalence and reporting of CCB offences

238. There is currently no reliable measure of the prevalence of CCB, and therefore there are no readily available estimates of the number of victims who have experienced CCB by an ex-partner or family member who does not live with them.
239. In 2017/18 the ONS attempted to measure the prevalence of CCB based on the Crime Survey for England and Wales⁸⁹. While a number of limitations of the CCB module were identified⁹⁰, it was estimated that 1.7 per cent of adults aged 16-59 years were victims of CCB from a partner or ex-

⁸⁹<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/developingameasureofcontrollingorcoercivebehaviour/2019-04-18>

⁹⁰ Due to a number of issues with the figures produced from the CCB questions (such as a lower prevalence of DA overall within the sample), the ONS concluded that the survey tool would require further testing (ONS, 2019) and, as such, estimates are subject to significant uncertainty. Nevertheless, this estimate is currently the best measure available, and we therefore draw on it to inform our estimate of the volume of victims coming into scope of the CCB offence.

partner in the previous 12 months. It is estimated this represents around 572,000 individuals⁹¹. The data is not broken down by type of perpetrator, that is, it is not possible to determine how many of these suffered CCB by an ex-partner specifically, nor whether the perpetrator was someone they lived with.

240. According to data shared with the Home Office by SafeLives in 2019, of about 750 victims receiving support on the DRIVE programme⁹² for jealous, coercive or controlling behaviour⁹³ from a current or ex-partner. In 75 per cent of cases the perpetrator was recorded as an 'ex-partner'⁹⁴. If these proportions are applied to the estimated prevalence above, then this suggests estimates of:
- CCB victims by a current partner (25%): about 143,000 adults aged 16 to 59 years.
 - CCB victims by an ex-partner (75%): around 430,000 adults aged 16 to 59 years.
241. It is likely that these proportions from the SafeLives data represent an over-estimate of the prevalence of abuse from ex-partners, as it is likely that individuals are more likely to have reported ex-partner abuse and be receiving support. Due to the lack of any other data source to inform these assumptions, these percentages have been used.
242. There were 24,856 CCB offences recorded in 2019/20 (excluding figures from Greater Manchester Police - GMP)⁹⁵. Scaling this up to include GMP using the published CCB offences in 2018/19 produces a figure of around 26,000.
243. Police recorded data available at national level is not broken down by the relationship between victim and perpetrator. However, more granular data provided by one police force suggests that, between Jan 2018 to May 2020, 48 per cent of recorded CCB offences were by a current partner.
244. Applying this percentage to the total number of CCB offences recorded nationally in 2019/20 and comparing to the estimated CCB prevalence by current partners, it is estimated that only 9 per cent of victims of CCB committed by current partners report to the police⁹⁶. It is assumed that there is no increase in the overall rate of public awareness and reporting due to the new change in legislation.
245. Assuming a similar reporting rate for ex-partners⁹⁷ and applying this to the estimated prevalence among ex-partners, it is estimated that there should have been around 38,000 reports from ex-partners in 19/20.
246. The granular data from one police suggests that between Jan 2018 to May 2020 38 per cent of recorded CCB offences were committed by an ex-partner. Given the legislation currently excludes ex-partners who do not live together, this 38 per cent likely represents CCB committed by ex-partners who continue to live with the victim, or abuse that took place within a relationship, that has been reported and recorded after the relationship has ended. Applying this percentage to the total number of CCB offences recorded nationally in 2019/20, suggests around 10,000 cases of ex-partner abuse of the expected 38,000, might be already captured by the current CCB legislation.
247. It is assumed that the remaining cases represent those who are not currently able to report CCB to the police, estimating the potential additional recorded offences from ex-partners who do not live together at about 28,000 in 2019/20.

Cases 'transferred' from current offences to the newly extended CCB offence

248. It is expected that a share of the estimated 28,000 cases of CCB by ex-partners are already captured under existing legislation such as stalking, therefore it is likely there will be some transfer of cases

⁹¹ While these figures are only for the year 2017/18, given there has been no significant change in the overall prevalence of DA in this time, we will assume that the figure would not change significantly, and have used it for the calculation of additional cases in 2019/20

⁹² Drive is a perpetrator programme working with high-harm, high-risk and serial perpetrators of domestic abuse. Victims receiving support through Drive may not be representative of all CCB victims, due to their partner having been identified as high harm/high risk, and them having accessed support services.

⁹³ This is Drive's own terminology based on behaviour reported by victims, rather than representing the legal definition of the CCB offence.

⁹⁴ It should be noted that it is unclear whether the perpetrator was a current or ex-partner at the time of abuse, or whether they are recorded as an ex-partner where the abuse took place during the relationship, but the relationship has since ended.

⁹⁵ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseprevalenceandvictimcharacteristicsappendixtables>

⁹⁶ This compares to a reporting rate of roughly 17% for all domestic abuse.

⁹⁷ Though of course the reporting rate could be higher (for example, due to an increased willingness to report on ex-partners) or lower.

from current offences to the newly extended CCB offence. This rate of transfer is highly uncertain and it is important to test this assumption through sensitivity analysis to highlight the scale of this uncertainty through cost ranges. While it is possible there could be transfer from a range of offences (stalking, harassment, fraud), it is thought to be most likely that cases would transfer from stalking.

249. To estimate the potential number of cases to be transferred from stalking to CCB offence, we have used recent CPS analysis of a limited but random sample of 50 stalking cases that reached prosecution from across England and Wales⁹⁸, which found that, of the 42 cases involving ex-partners, 88 per cent (37) had evidence of domestic abuse having previously occurred during the relationship.
250. Using this limited information, it is estimated that up to 88 per cent of DA related stalking cases⁹⁹ could be transferred under the newly extended CCB offence, if stalking behaviour by ex-partners were part of other/ongoing coercive and controlling behaviours against the victim.
251. Applying the percentage of 88 per cent to the 2019/20 number of recorded offences of domestic abuse-related stalking offences (around 23,000, factoring in GMP), would imply that **up to around 17,500 stalking offences could be transferred under the extended CCB offence.**
252. If then, up to 17,500 cases of the expected additional 28,000 reported cases of CCB are already captured under existing legislation, it is estimated that **only around 11,000** of the expected additional cases of CCB would not have otherwise been reported to police.
253. Due to the high degree of uncertainty, these estimates should be considered as indicative.
254. The additional costs of removing the co-habitation requirement for CCB will be driven by two factors:
 - Additional new CCB cases from ex-partners which would not have otherwise been reported and entered the CJS without extending the legislation (about 11,000 cases)
 - Higher unit costs for the cases transferred from stalking to the newly extended CCB offence (up to 17,500 cases). While the maximum sentence for stalking is higher, the average custodial sentence and cost to the CJS for stalking offences is lower (due to the majority being summary only offences).
255. The additional costs will not include any transition costs for the police and charities, which are likely to be negligible given familiarisation with the existing legislation.
256. On balance of the limited available evidence, the low and central scenarios assume that the expected number of CCB cases which are not already captured in the existing legislation are likely to be negligible. This is because these additional cases are already being recorded and prosecuted under existing legislation such as stalking.
257. The assumption of how many of the new CCB cases may be transferred from other offences such as stalking was tested through sensitivity analysis, testing ranges between 25 to 100 per cent of DA-related stalking cases that might be transferred under the extended CCB offence.
258. Implementation would start in 2022/23 and be subject to the outcome of the next Spending Review.
259. Based on the evidence available, the average annual cost of extending the legislation (between 2022/23 and 2030/31) is estimated to range between **£1 and £32 million** per year. The ranges reflect the high level of uncertainty, primarily related to a) the prevalence of CCB caused by ex-partners; and b) the number of such cases which may be already recorded and prosecuted under existing legislation such as stalking.

Non-monetised costs

260. Due to insufficient data this does not include the costs to family members not living with the victim, but the impact of this is expected to be relatively small.

Benefits of Measure (n)

Monetised benefits

⁹⁸ <https://www.cps.gov.uk/cps/news/stalking-analysis-reveals-domestic-abuse-link>

⁹⁹ In the absence of data regarding the breakdown of DA related stalking by perpetrator, we have assumed a maximum of 100% DA related stalking could be perpetrated by ex-partners to inform our upper bound. The proportion is likely to be a lower, which is why a sensitivity analysis is being used to produce a cost range.

261. It has not been possible to identify any monetised benefits associated with this measure, as there is a lack of data on the social and economic benefit of more appropriate sentences and improved outcomes for victims.

Non-monetised benefits

262. The Home Office review of the CCB offence¹⁰⁰, found some evidence that it would be beneficial to extend the CCB legislation to encompass former partners who do not live together, due to a perception that some post-separation abuse is currently being missed, and that there may be confusion among police and prosecutors regarding how abuse which continues beyond the end of a relationship should be recorded and charged. This suggests that extending the scope of the offence is beneficial to ensure no victim is left without legal protection around the time of separation, a time which research suggests is when abuse often intensifies.

263. Bringing CCB by a former intimate partner that takes place post-separation or by a family member who does not live with the victim, within the ambit of the offence, is expected to lead to more recorded crimes coming into scope and stronger cases against perpetrators of CCB offences. This will lead to more charges, more offenders brought to justice, more appropriate sentences, and improved outcomes for victims.

Net quantifiable impacts of Measure (n)

264. Costs are in a range of £7.3 to £242.0 million (PV), with a central estimate of £18.2 million (PV) over 10 years. The cost per year in the central scenario is around £2.5 million (2021/22 prices).

(o) Extend the offence at s33 of the Criminal Justice and Courts Act 2015 to cover threats to disclose intimate images

Costs of Measure (o)

Monetised costs

265. It has not been possible to identify any monetised costs associated with this measure as it is difficult to establish a baseline for such cases as this data is not readily available. As such, it is not possible to estimate the number of cases that are likely to be prosecuted and the associated costs to the CJS.

Non-monetised costs

266. There may be an increase in overall caseload as a result of this measure. However, this is likely to be limited as much of the behaviour covered by this offence is also covered by existing offences such as blackmail and stalking. For this reason, the costs to the CJS are likely to be limited.

267. There may also be some movement between case types, as in some cases it may be easier to prove that this offence occurred than that other offences occurred. For example, an individual who would previously have been charged with blackmail might now be charged with this new offence instead. Any charge will depend on the circumstances of the individual case so it is not possible to predict the extent to which this will happen. However, the maximum sentence for many of the current offences are higher than for this new offence. The costs to the criminal justice system and the impact on the prison population is therefore likely to be limited.

Benefits of Measure (o)

Monetised benefits

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

Non-monetised benefits

269. These provisions will create a clear and consistent enforcement regime for both threats and actual disclosures. The reform will provide greater protection to those who might have had to endure such intrusive and distressing behaviour, helping to secure prosecutions and convictions where existing legislation may be insufficient.

¹⁰⁰ Available at: <https://www.gov.uk/government/publications/review-of-the-controlling-or-coercive-behaviour-offence>

(p) Inserts new sections 75A and 75B, into the Serious Crime Act 2015 to create a new criminal offence of strangulation or suffocation and to provide extraterritorial effect to the offence

Costs of Measure (p)

Monetised costs

270. It has not been possible to identify any monetised costs associated with this measure. Establishing a baseline is difficult as data on offences committed where strangulation is a factor is not available. It is not possible to estimate the number of cases that are likely to be prosecuted and the associated costs to the CJS.

Non-monetised costs

271. As above, it is not possible to estimate the relevant volumes and associated costs. As the aim of the measure is to improve the ability to prosecute and secure convictions where existing offences may not allow this to successfully happen, it is anticipated that there will be some costs to the CJS. The publicity surrounding its introduction could also encourage prosecution under this offence as opposed to other existing criminal offences, leading to a shift in offences prosecuted.

272. There will also be some administrative costs associated with training, production of guidance and any other changes required to processes or systems as a result of the new offence.

Benefits of Measure (p)

Monetised benefits

273. It has not been possible to identify any monetised benefits associated with this measure, as data on offences committed where strangulation is a factor is not available.

Non-monetised benefits

274. The new offence will address concerns that offenders are escaping justice where there is little, if any, physical signs of harm caused by strangulation or suffocation to a victim. This measure will help to improve the ability to prosecute and secure convictions where existing offences may not allow this to successfully happen.

(q) Amendment to the Domestic Violence, Crime and Victims Act 2004 to require that all Domestic Homicide Review (DHR) reports are shared with the Domestic Abuse Commissioner

Cost of Measure (q)

Monetised costs

275. There will be no additional costs associated with this measure.

Non-monetised costs

276. There will be no additional costs associated with this measure.

Benefits of Measure (q)

Monetised benefits

277. It has not been possible to identify any monetised benefits associated with this measure, as there is not sufficient evidence on how this will improve the understanding of domestic homicides with a view to preventing further deaths.

Non-monetised benefits

278. Section 9 of the Domestic Violence Crime and Victims Act 2004 established DHRs on a statutory basis. The purpose of DHRs is to identify what lessons are to be learned following a domestic homicide with a view to preventing more deaths.

279. DHRs are conducted a local level by Community Safety Partnerships. The statutory guidance requires that the final report is shared with the Home Office upon publication.

280. The measure amends this requirement to require those conducting DHRs to share the final report with both the Home Office and the Domestic Abuse Commissioner. The purpose of this is to improve the oversight of DHRs and allow for a more systematic collection of investigations into suicides and homicides where domestic abuse is a contributory factor.
281. The list of public authorities which have a duty to co-operate with the Domestic Abuse Commissioner is being extended to include the Independent Office for Police Conduct. It is proposed to include the IOPC through an amendment to the Domestic Violence, Crime and Victims Act 2004 rather than through this Act. This will allow the IOPC more time to prepare for the changes and to put in place a Memorandum of Understanding.
282. On the duty to cooperate with the IOPC, this will allow the Domestic Abuse Commissioner to request information from them regarding investigations they conduct into domestic homicides.
283. The Domestic Abuse Commissioner will bring greater oversight to the DHR process and collate findings from DHRs to improve the understanding of domestic homicides with a view to preventing further deaths.
- (r) Place a duty on the Secretary of State to issue a perpetrator strategy within one year of Royal Assent.**

Cost of Measure (r)

Monetised costs

284. There are no additional costs associated with this measure as the existing resource in place for the Domestic Abuse strategy is sufficient.

Non-monetised costs

285. There are no additional costs associated with this measure.

Benefits of Measure (r)

Monetised benefits

286. It has not been possible to identify any monetised benefits associated with this measure, as the content of the strategy are not known and therefore the benefits of the strategy cannot be quantified and monetised.

Non-monetised benefits

287. A duty to issue a perpetrator strategy within one year of Royal Assent, will ensure that a strategic approach to tackling domestic abuse perpetrators is taken. A strategic approach will support efforts to improve the provision of perpetrator interventions and increase the focus on the detection, investigation and prosecution of offences, assessment and management of risk (including risks associated with stalking), and reducing the risk of individuals committing further acts of abuse. This will reduce the risk that such individuals commit further domestic abuse offences.
288. The perpetrator strategy will help to shift the approach to domestic abuse so that it focuses on preventing further abuse by working with perpetrators as well as supporting victims of abuse.

- (s) Clarify that the circumstances in which a court can bar an individual from making applications under the Children Act 1989 without the court's permission include domestic abuse circumstances.**

Cost of Measure (s)

Monetised costs

289. It has not been possible to identify any monetised costs associated with this measure, due to the lack of data on section 91(14) orders.

Non-monetised costs

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

Benefits of Measure (s)

Monetised benefits

291. It has not been possible to identify any monetised benefits associated with this measure, due to the lack of data on section 91(14) orders.

Non-monetised benefits

292. This measure would provide further clarity in the law in this area and address concerns that have been raised that perpetrators of domestic abuse are using the family courts as a way to continue their abuse, often bringing their victims back to court repeatedly, which can be a traumatising process. The measure would therefore assist towards improving the experience of family courts for domestic abuse survivors.

293. HMCTS does not keep data on section 91(14) orders however, qualitative evidence compiled in the Harm Panel Report (MoJ, June 2020), through discussions with judicial members, practitioners and justice professionals, was clear that 'barring orders' are rarely sought or used. Any increase in their use following this clarification would still represent a small number of cases.

294. Therefore, any impact on HMCTS is anticipated to be minimal. The Ministry of Justice will work with HMCTS colleagues on the data and monitoring systems and requirements.

(t) Prohibition on charging for the provision of medical evidence of domestic abuse

Cost of Measure (t)

Monetised costs

295. There is no anticipated cost for government by making this change. In theory there could be a loss of income for general practices who currently can charge for a letter at their discretion as outlined above.

296. However, given the BMA's clear recommendation to members that they should not charge for this and a lack of recent evidence that charging does take place since this guidance has been issued, it can be deduced that there will not be any significant cost for general practice from this change.

297. There is the potential that more patients will seek letters from their GPs if they have previously perceived the possibility of a charge as a barrier. However, it is considered that this will not be a significant number and that there will not be any significant cost to general practice from this change.

Non-monetised costs

298. It has not been possible to identify any non-monetised costs.

Benefits of Measure (t)

Monetised benefits

299. It has not been possible to identify any monetised benefits, due to a lack of data on amount of charging takes place and how prohibiting charging will change victims' behaviour.

Non-monetised benefits

300. Removing any ability to charge victims for getting the letter they need to access legal aid will ensure fairness for all victims and ensure they are not economically disadvantaged by trying to access legal aid.

(u) Report on the use of child contact centres in England

Cost of Measure (u)

Monetised costs

301. It has not yet been possible to outline monetised costs associated with this measure. The cost of the review itself is not yet known and it is possible that the review may recommend actions with further cost implications.

Non-monetised costs

302. Non-monetised costs associated with this measure will include policy and analytical resource to complete the review. It is likely these costs will need to be met from within existing resource.

Benefits of Measure (u)

Monetised benefits

303. It has not been possible to identify any monetised benefits associated with this measure, as the findings from the review are not known.

Non-monetised benefits

304. This measure would provide further clarity in the area of child contact centres and address concerns that adults and children may be at risk of domestic abuse and, in the case of children, other harms, due to the fact that child contact centres are unregulated, and that accreditation is voluntary.

(v) To lay before Parliament a review into a data-sharing firewall between police and Immigration Enforcement for migrant victims' crime

Cost of Measure (v)

Monetised costs

305. There is no anticipated cost for government by making this change. The data-sharing review and the Code of Practice will not incur any financial costs.

Non-monetised costs

306. It has not been possible to identify any non-monetised costs.

Benefits of Measure (v)

Monetised benefits

307. It has not been possible to identify any monetised benefits.

Non-monetised benefits

308. The Government will be adhering to the recommendation set out by HMICFRS on the data-sharing super-complaint. This is the first super-complaint and the Home Office are committed to considering the recommendations as set out by HMICFRS.

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

309. 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.

310. It is also possible that the set of measures will increase public trust in the CJS.

311. 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.

312. 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

313. 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)¹⁰¹ updated to 2021/22 prices¹⁰² estimates domestic abuse to have cost £74 billion in England and Wales for the year ending March 2017¹⁰³. Costs from *The Economic and Social Costs of Domestic Abuse* Report stated below are in 2021/22 prices. 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, estimated to be £53 billion. Costs for each victim of domestic abuse is estimated to be approximately £38,000.
- The second highest cost estimated within this 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 productive following their return. The cost of this was estimated at £16 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 £2.6 billion.
- 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. Analysis of the Crime Survey for England and Wales showed that those who had witnessed domestic violence or abuse as a child (before the age of 16 years) were more likely (than those who had not) to experience domestic abuse in the previous year as an adult (21% vs 5%) and to experience sexual assault in the last year as an adult (5% vs 2%) (ONS, 2017)¹⁰⁴.

Mechanism through which the proposed measures are assumed to reduce harm

314. The rationale underpinning the proposed options is to increase awareness and earlier reporting of domestic abuse, and provide the CJS 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

315. 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 2020, an estimated 2.3 million adults aged 16 to 74 years experienced domestic abuse in the previous year¹⁰⁵. Given the estimated costs of domestic abuse were approximately £74 billion for victims of domestic abuse in the year ending March 2017 (Oliver et al., 2019) updated to 2021/22 prices, it will only take a very modest annual reduction in domestic abuse related crime for the estimated £172 million to £221 million annual cost of the policy measures to be offset by the potential benefits.

316. 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*. Costs for each victim of domestic abuse is estimated to be approximately £38,000. When the total costs included within this IA at full implementation (£172 million to £221 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 5,200 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,¹⁰⁶ 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.

¹⁰¹ Oliver, R., Alexander, B., Roe, S. and Wlasny, M. (2019) *Economic and Social Cost of Domestic Abuse*. London: Home Office

¹⁰² <https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-march-2021-quarterly-national-accounts>

¹⁰³ 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.

¹⁰⁴ 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/>

¹⁰⁵ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseprevalenceandvictimcharacteristicsappendixtables>

¹⁰⁶ 2,318,000 domestic abuse victims within 2019/20

Summary and preferred option

317. The total quantified annual costs of **Option 2** (excluding measure (i)) are estimated to be between £172 and £221 million per year, once the measures have been fully implemented. **The costs from the Act over 10 years at present value are estimated to be between £1,358 and £1,677 million. The central estimate for this is £1,411 million.** The estimated economic benefit of the policy is not monetised, as per the explanation above. **The Net Present Social Value is -£1,411 million** as there are no monetised benefits.
318. 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.
319. There are no costs and benefits expected on businesses from the measures of this Act. Therefore, the net cost to business (as measured by the EANDCB¹⁰⁷) is zero.

Table 3: Summary of estimated annual costs by measure, at full implementation, for costed measures, and justice system agency; and present value costs (PV) over 10 years by measure (£ millions, 2021/22 prices).

Columns: (b) Domestic Abuse Commissioner, (c) Protective orders, (d) Extend ETJ, (e) DVDS, (f) Cross examination, (g) Polygraph, (i) Local authority support services, (l) Priority need for the homeless, (n) Extend the offence of CCB, Total.

Agency	(b)	(c)	(d)	(e)	(f)	(g)	(j)	(l)	(n)	Total
HO/Police	1.1	2.9 - 12.1		0.3 - 0.7					0.0 – 21.3	4.3 - 35.2
HMCTS		2.8 - 4.1	0.8						0.1 – 1.3	3.7 - 6.2
CPS		0.7 - 0.9	0.3						0.0 – 0.4	1.0 - 1.6
LAA		3.7 - 6.4	1.7						0.1 – 0.7	5.5 - 8.8
HMPPS		11.9 - 15.3	4.7			0.5			0.8 – 9.3	17.9 - 29.7
Other		1.9 - 1.9								1.9 - 1.9
MoJ Central Funds					9.2					9.2
Local authorities							124.5	3.1		127.6
Scotland			0.8							0.8
Total	1.1	23.9 - 40.7	8.3	0.3 - 0.7	9.2	0.5	124.5	3.1	1.0 - 33.0	171.8 - 220.9
Total cost (PV)	9.0	111.6 - 192.9	69.0	2.5 - 5.1	59.0	1.3	1,071.7	26.7	7.3 - 242.0	1,358 - 1,677

Source: Home Office, MoJ and MHCLG own estimates.

Note: HMPPS estimates include CRC payments. 15 per cent optimism bias (OB) applied. Excludes impacts of measure (i). Figures may not sum due to rounding.

F. Proportionality

320. 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.

¹⁰⁷ The cost to business is measured by the Equivalent Net Direct Cost to Business (EANDCB) when comparing these costs across different impact assessments and for comparison against the Business Impact Target (BIT) which is agreed by Parliament.

G. Risks

321. 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.
322. 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.

Table 4: Summary of assumptions and their risks and impacts

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, unless stated otherwise.
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 CCB 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.
Baseline volumes of protective orders	Given the upward trend in volumes of some protective orders, the baseline used is 2019/20 volumes with a 5% uplift to account for this trend. It is possible that baseline volumes may increase beyond this, particularly in the context of the impact COVID-19 restrictions on cases of DA.
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 under-estimate.

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 thus 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)	Proportion of these orders that are domestic abuse specific and that will become DAPOs – volumes above are based on the following: <ul style="list-style-type: none"> • 100 per cent of DVPOs will become DAPOs • 80 per cent of DA-specific non-molestation orders will become DAPOs • 40 percent of DA-specific occupation orders will become DAPOs • 86 per cent of restraining orders (on conviction) and 85 per cent of restraining orders (on acquittal) are DA specific and 60 per cent will become DAPOs
Order conditions	Modelling assumes 30 per cent of offenders would have a perpetrator programme condition attached to their DAPO and 2 per cent of offenders would have electronic monitoring attached to their DAPO. 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	EM costs are based on daily unit costs – the key uncertainty comes from the volume assumption above. Costs may be higher if volumes are higher. There is minimal difference in cost between GPS or Radio Frequency EM.
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 2,000 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.

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, there is no available 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	<p><i>Unit cost of police time</i> –Data on the cost per request were published for Wiltshire police force in 2012/13 following the pilot assessment of the policy. Internal data from an additional five police forces has been used, to provide more up to date estimates.</p> <p>Although the cost of police time has been adjusted to 2021/22 prices the time taken by police may have fallen since the introduction as forces become more used to the scheme.</p>
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 arrangement 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>The 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>The fee scheme for family cross-examination has not been finalised, and so an approximate estimate for a fee has been used, based on work which is ongoing to design the fee scheme.</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, however the costs and benefits in this IA do not include the civil jurisdiction as there remains too much uncertainty around the volumes and fee scheme to make a robust estimate.</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 (for example, 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.

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	The cost estimate is based on current evidence of unmet need. There are some uncertainties as it will depend on the volume of domestic abuse victims coming forward in future

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	Costs are driven by the number of additional domestic abuse victims that need to be accommodated because of this change, and the unit cost of temporary accommodation.
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.

Measure (n) – Extend the offence of controlling or coercive behaviour in an intimate or familial relationship to remove the co-habitation requirement	
<i>Risks and Impacts</i>	
Volume of cases	These estimates for the prevalence of CCB caused by ex-partners are highly uncertain and depend on the decisions of police and CPS to charge these crimes as CCB rather than stalking.
Volume of cases	It is expected that a share of the 28,000 cases of CCB by ex-partners are already captured under existing legislation, therefore it is likely there will be some transfer of cases from current offences which may be already recorded and prosecuted under existing legislation such as stalking, to the newly extended CCB offence. This rate of transfer is highly uncertain.

Measure (o) – Extend the offence at s33 of the Criminal Justice and Courts Act 2015 to cover threats to disclose intimate images	
<i>Impacts</i>	
Baseline data on number of incidents	Establishing a baseline is difficult as data on incidents related to the threat of disclosure of private sexual photographs is not readily available. As such, it is not possible to estimate the number of cases that are likely to be prosecuted and the associated costs to the criminal justice system. As the aim of the measure is to improve the ability to prosecute and secure convictions where existing offences may not allow this to successfully happen, there could be some costs to the criminal justice system but these are likely to be minimal.

Measure (p) – Inserts new sections 75A and 75B, into the Serious Crime Act 2015 to create a new criminal offence of strangulation or suffocation and to provide extraterritorial effect to the offence	
	<i>Impacts</i>
Baseline data	Establishing a baseline is difficult as data on offences committed where strangulation is a factor is not readily available. As such, it is not possible to estimate the number of cases that are likely to be prosecuted and the associated costs to the criminal justice system. As the aim of the measure is to improve the ability to prosecute and secure convictions where existing offences may not allow this to successfully happen, it is anticipated that there will be some costs to the CJS. The publicity surrounding its introduction could also encourage prosecution under this offence as opposed to other existing criminal offences, leading to a shift in offences prosecuted.

Measure (s) – Clarify that the circumstances in which a court can bar an individual from making applications under the Children Act 1989 without the court’s permission include domestic abuse circumstances.	
	<i>Impacts</i>
Behavioural change	The behavioural changes arising from this measure leading to an increase in the number of barring orders under section 91 (14) are highly uncertain as the measure is a clarification of existing legislation.

Measure (u) – Report on the use of contact centres in England.	
	<i>Risks and Impacts</i>
Baseline data	<p>The report will establish baseline data on the use of child contact centres and the extent to which individuals are protected from the risk of domestic abuse, and in the case of children other harms. The number of unaccredited child contact centres, who they are used by and how they received referrals is unknown at this time. This is something the report will seek to ascertain. In addition, limited data is available with regards to the protection afforded to individuals attending child contact centres.</p> <p>Should the report recommend that additional regulation is required in the child contact sector, it will likely involve cost to the government in terms of putting in place relevant regulatory requirements and monitoring processes.</p>

H. Direct costs and benefits to business calculations

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

I. Wider impacts

Equality considerations

324. An equality statement will be published separately.

Family impact considerations

325. 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 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

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

K. Monitoring and evaluation

327. The Act 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.

328. 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. Annexes

Annex 1 – Costs of Scottish ETJ cases

329. 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.
330. 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 £7.4 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 £740,000 per year resulting from 20 additional cases per year. The slightly more detailed analysis below produces an estimated annual cost of £800,000. 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.
331. 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.
332. 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.
333. 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: £1,600
 - Sheriff & Jury: £9,000
 - High Court: £103,000
334. 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 £323,000 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 £45,000. 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 out with 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 £367,000 per annum.
335. 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 £39,000. 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.

336. The UK Government estimate that the average cost of additional prison places in England and Wales will be £4.7 million per year. In the absence of available data, an estimate of £470,000 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.
337. In view of the considerable uncertainty, monitoring the number of additional cases that arise after the extraterritorial provisions of the Act come into effect will be prudent to accurately assess the financial impacts.

Annex 2 – Statutory Equalities Duties

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p>Statutory Equalities Duties</p> <p>In evaluating the impact of the introduction of the new policies set out in the Act, due consideration has been undertaken to assess any discriminatory impacts on groups with protected characteristics including age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.</p> <p>The prevention of abuse and the protection of victims lies at the heart of the Act and the wider programme of work. Each protected characteristic has been assessed for ‘direct’ and ‘indirect’ discrimination as defined under the Equality Act 2010, when considering the impacts of the Act’s provisions. Specifically, consideration has been given to those policies that are designed to prevent domestic abuse and protect victims and those that will impact particular groups who are most affected by domestic abuse.</p> <p>The overall policy objective is to build a society that has zero tolerance towards domestic abuse and actively empowers victims, communities and professionals to confront and challenge it and to provide victims and their children with the support they deserve. The provisions in the Act, alongside a programme of non-legislative measures, intended to transform the response to this crime and is intended to apply to all victims equally.</p> <p>The measures being introduced in the Act should represent a positive change for all those affected by domestic abuse. In relation to protected characteristics, the evidence indicates that younger people, victims with disabilities, transgendered people, pregnant women or mothers, victims from mixed/multiple ethnic groups (female) and women generally are more likely to be victims than those who do not share those protected characteristics. The policy proposals will help ensure the prevention of abuse, support for victims and their children, and pursuit of perpetrators for all these groups of victims with protected characteristics and represents a proportionate means of achieving these policy aims.</p> <p>To advance opportunities to access support for certain protected groups who may find it difficult to benefit from the provisions in the Act, the Government already has in place measures to support these groups. For example, training is in place to improve the understanding of domestic abuse within these groups and ability to proactively identify potential victims by the responding agencies. This will help support groups who experience domestic abuse and may find it difficult to disclose the abuse such as BME women and men.</p> <p>To support marginalised groups who are likely to be impacted by domestic abuse, the Government also provides funding for the provision of services or has developed targeted strategies.</p> <p>A Policy Equality test has been conducted and a Policy Equalities Impact Assessment will be published.</p> <p>The Senior Responsible Owner has read and agreed with these findings.</p>	<p>Yes</p>