

Impact Assessment, The Home Office

Title: Sexual Harassment Consultation IA IA No: HO0427 RPC Reference No: N/A Other departments or agencies: Ministry of Justice.	Date: 7 July 2022
	Stage: Consultation
	Intervention: Domestic
	Measure: Primary legislation
	Enquiries: VawgEnquiries@homeoffice.gov.uk
RPC Opinion: Not Applicable	Business Impact Target: Not a regulatory provision

Cost of Policy Option (in 2022/23 prices)

Net Present Social Value NPSV (£m)	-157.0	Business Net Present Value BNPV (£m)	N/A	Net cost to business per year EANDCB (£m)	N/A
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What is the problem under consideration? Why is government intervention necessary?

Public sexual harassment (PSH) is a significant problem in society. It can negatively impact a person's well-being and the fear of it can lead to adverse impacts on the well-being of a wider group of people. As women are disproportionately the victims of PSH, this can entrench inequality between the sexes. Government action is necessary to reduce the prevalence and fear of PSH, so that more perpetrators face justice, women are and feel safer, and inequality between the sexes is reduced.

What is the strategic objective? What are the main policy objectives and intended effects?

The strategic objectives are to reduce crime and restore confidence in the criminal justice system.

The policy objectives are to:

- Reduce the prevalence of PSH in England and Wales.
- Ensure that victims and bystanders are more likely to report it to the police.
- Increase likelihood of police taking action and more perpetrators being brought to justice.
- Increase people's feelings of safety and ensure they feel more confident in public places.
- Reduce inequalities between the sexes in society.

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

Option 0: ('Do-nothing'). Create no new offences to address PSH.

Option 1 Create a new offence: when behaviour under section 4A of the Public Order Act 1986 is committed, if it is done because of a person's sex a higher sentence can be issued.

Option 2: Create a new offence: when behaviour under section 4A of the Public Order Act 1986 is committed, if it is done because of a person's sex, a higher sentence can be issued – with a list of example behaviours specified.

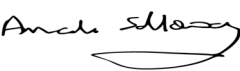
Main assumptions/sensitivities and economic/analytical risks	Discount rate (%)	3.5
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The main sensitivities of the analysis centre around the lack of data on the prevalence of PSH, what proportion of these are currently reported to the police, and how reporting may change following the intervention. The uncertainty around the volumes is reflected in the wide range of costs estimated in the appraisal of these options. If the estimated number of offences is over or underestimated in the estimates, outside of the current ranges, this would have a significant impact on the cost estimates.

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

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: 20 July 2022

Summary: Analysis & Evidence

Policy Option 1

Description: Sexual Harassment Consultation IA 2022

FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2022/23	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-37.6	High:	-685.0	Best:	-157.0	Best BNPV	0.0	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	To Individuals Present Value	To Business Present Value
Low	0.4	37.3	37.6	37.6	0.0
High	5.9	679.1	685.0	685.0	0.0
Best Estimate	1.4	155.7	157.0	157.0	0.0

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

The total estimated costs lie within a range of **£37.6 to £685.0 million (PV)**, with a central estimate of **£157.0 million** over 10 years. All costs are assumed to be borne by the public sector, with the majority of costs estimated to fall to the police, between **£30.6 to £632.8 million (PV)**, with a central estimate of **£139.3 million (PV)** over 10 years.

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

Due to a lack of data, costs to the CPS have not been estimated. It is likely that these will increase given the increase in volume of offenders being prosecuted.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	To Individuals Present Value	To Business Present Value
Low	0.0	0.0	0.0	0.0	0.0
High	0.0	0.0	0.0	0.0	0.0
Best Estimate	0.0	0.0	0.0	0.0	0.0

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

There are no monetised benefits of this intervention. A breakeven analysis has been provided to indicate how many crimes would need to be prevented to offset the monetised costs of the policy.

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

There are expected to be a range of non-monetised benefits following intervention including a greater awareness of PSH, a reduction in offending, a clearer framework for the police and CJS around dealing with PSH, and increased victim satisfaction.

BUSINESS ASSESSMENT (Policy 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:					
Does the measure support market competition and innovation?				Neutral	
Does the measure support international trade?				Neutral	
Does the measure support the environment and decarbonisation?				Neutral	

PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 1)

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

Policy Option 2

Description: Sexual Harassment Consultation IA

FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2022/23	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-37.6	High:	-685.0	Best:	-157.0	Best BNPV	0.0	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	To Individuals Present Value	To Business Present Value
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BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	To Individuals Present Value	To Business Present Value
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High	0.0	0.0	0.0	0.0	0.0
Best Estimate	0.0	0.0	0.0	0.0	0.0

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

There are no monetised benefits of this intervention. A breakeven analysis has been provided to indicate how many crimes would need to be prevented to offset the monetised costs of the policy options.

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

There are expected to be a range of non-monetised benefits following intervention including a greater awareness of PSH, a reduction in offending, a clearer framework for the police and CJS around dealing with PSH, and increased victim satisfaction.

BUSINESS ASSESSMENT (Policy Option 2)

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:					
Does the measure support market competition and innovation?				Neutral	
Does the measure support international trade?				Neutral	
Does the measure support the environment and decarbonisation?				Neutral	

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

A. Strategic objective and overview

A.1 Strategic objective

1. The strategic objective, taken from the Home Office Outcome Delivery Plan¹, is to reduce crime. Within that, it forms part of the Tackling Violence Against Women and Girls Strategy². It sits within the People's Priority of restoring confidence in the criminal justice system.

A.2 Background

2. PSH is a significant problem in England and Wales, which has come to the forefront of public attention since 2021. As an illustration of the scale of the problem, in May 2022 the Office for National Statistics (ONS) published statistics relating to perceptions of safety and experiences of harassment, based on the Opinions and Lifestyle Survey conducted between 16 February and 13 March 2022³. It found that:
 - One in two women and one in six men felt unsafe walking alone after dark in a quiet street near their home.
 - 45 per cent of women and 18 per cent of men felt unsafe walking alone after dark in a busy public place.
 - 82 per cent of women and 42 per cent of men felt unsafe walking alone after dark in a park or other open space.
 - One in two women aged between 16 and 34 years experienced one form of harassment in the previous 12 months, with 38 per cent of women aged between 16 and 34 having experienced catcalls, whistles, unwanted sexual comments, or jokes, and 25 per cent having felt that they were being followed.
 - 54 per cent of people who reported feeling unsafe during the day, and 46 per cent who reported feeling unsafe after dark, had altered their behaviour, as a result, in the previous month.
3. The sheer scale of public concern about the extent of PSH was made clear in the volume of responses - over 180,000 - to the Call for Evidence for the Tackling Violence Against Women and Girls Strategy, which was published in July 2021. In the nationally representative survey of 2,000 people which formed part of that exercise, 44 per cent of respondents felt that PSH was happening more often in England and Wales compared to five years before (including 18 per cent who felt that it was happening much more often) compared to 10 per cent who felt that it was happening less and 35 per cent who felt that there had been no change.
4. PSH can, when it happens, lead to adverse emotional effects on the victims, including impacts on their mental health. It can cause people to feel unsafe, even if they do not actually experience PSH behaviour, and that can impact similarly on their well-being. As the ONS data above shows, it can alter people's behaviour, causing them not to do things which they might otherwise do, which can lead not only to adverse impacts on their own lives but also adverse impacts on the people, organisations, and businesses with whom they might otherwise interact. As victims of PSH are disproportionately female (see the ONS figures above), the disproportionate distribution of these adverse consequences towards women means that PSH is a cause of inequality between the sexes.

¹ Home Office outcome delivery plan, Home Office. Available here: <https://www.gov.uk/government/publications/home-office-outcome-delivery-plan>

² Tackling violence against women and girls' strategy, Home Office. Available here: <https://www.gov.uk/government/publications/tackling-violence-against-women-and-girls-strategy>

³ Perceptions of personal safety, ONS, 2022. Available here: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/perceptionsofpersonalsafetyandexperiencesofharassmentgreatbritain>

5. The Government considers that a range of existing criminal offences, in particular those under the Public Order Act 1986 (POA 1986), the Sexual Offences Act 2003 (SOA 2003) and the Protection from Harassment Act 1997 (PHA 1997), can already be used to prosecute PSH behaviour. New guidance issued by the College of Policing in December 2021⁴ made this clear to officers, setting out the criminal offences, civil protective orders and other protective measures which can be used to tackle PSH behaviour. The aim was to increase officers' awareness of what can be done upon receiving a report of PSH. This guidance was one of a number of measures which the Government and other statutory authorities have been taking since the summer of 2021 to tackle PSH, which include the '*Enough*' communications campaign, the piloting of the new StreetSafe tool⁵, and new funding focused on PSH behaviour under Round 3 of the Safer Streets Fund⁶ and the Safety of Women At Night Fund⁷.
6. However, many people consider that a specific criminal offence targeted directly at PSH should be created. Some disagree that all manifestations of PSH are criminalised by existing laws and consider that there are legislative gaps which need to be filled. Others consider that a new offence would meet other policy aims, such as:
 - Simplifying and clarifying the law for the public.
 - Encouraging more victims to report PSH.
 - Making coherent for police and prosecutors the legislation relating to PSH behaviour, with a view to increasing levels of prosecutions and convictions.
 - Increasing consistency in the application of the law and thus providing greater legal certainty.
7. Through this consultation the Government is seeking views on whether a new offence of PSH should be created, and if so, what it should look like.

A.3 Groups affected

8. The main groups that would be affected by this policy have been identified as follows:
 - Victims of PSH – especially women.
 - People who fear that they may become victims of PSH – especially women.
 - Perpetrators of PSH – especially men.
 - Members of the public more broadly, who may, as a result of the growing levels of awareness caused by a new offence, intervene to stop PSH behaviour.
 - Police forces in England and Wales, who would need to familiarise themselves with any new offence and associated guidance material, respond to a greater volume of reports, and carry out ongoing work in relation to those reports where a charge is feasible.
 - The criminal justice system (CJS) – which would meet various other associated costs. This would include HM Prisons and Probation Service (HMPPS) who would face costs in constructing and maintaining new prison places; HM Courts and Tribunals Service (HMCTS) which would face costs in holding magistrates' court and Crown Court trials; the Legal Aid Agency (LAA) which would fund legal aid for defendants in magistrates' and Crown Court trials; and the CPS which would prosecute cases.
 - Staff in public transport settings, who will need to be more aware of the law, as they may be the first to be approached by a victim of PSH and may be the one who needs to first call the police.

⁴ <https://www.college.police.uk/guidance/violence-against-women-and-girls-toolkit/street-harassment>

⁵ <https://www.police.uk/pt/notices/streetsafe/street-safe/>

⁶ <https://www.gov.uk/government/news/police-local-authorities-given-extra-235m-for-safer-streets>

⁷ <https://www.gov.uk/government/news/millions-awarded-for-new-projects-to-keep-women-safe>

- Staff in night-time economy settings, who will need to be more aware of the law, as they may be the first to be approached by a victim of PSH and may be the one who first needs to call the police; but whose companies may also obtain more business, as people who would have feared going out at night now do so.
- Taxpayers – who would ultimately meet the costs faced by the police and the criminal justice system, as set out above.
- Teachers, who may as a result of a new offence give pupils more targeted advice about what they can and should do if they experience PSH.
- Charities and other support organisations, who may expect more referrals of victims from the police as a result of the police receiving more reports from victims.

A.4 Consultation

Within government

9. The Ministry of Justice and Attorney General's Office have been closely involved in the development of the policy and potential draft offence. They, as well as Department for Education, Government Equalities Office, Department for Transport and Department for Digital, Culture, Media and Sport were consulted on the policy prior to seeking formal cross-Government agreement. The usual process of seeking formal cross-government agreement was then followed.

Public consultation

10. This IA is prior to a consultation with various stakeholders. The policy proposal within the consultation was informed by the responses to the Call for Evidence for the 2021 Tackling Violence Against Women and Girls Strategy, many of which related to PSH, as well as more specific engagement with specialist charities and non-governmental organisations (NGOs) in this area, and relevant statutory authorities (such as the police and CPS).

B. Rationale for intervention

11. The conventional approaches to government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (for example, monopolies overcharging consumers) or there are strong enough failures in existing Government interventions (for example, waste generated by misdirected rules) where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (for example, to reallocate goods and services to more vulnerable groups in society).
12. The primary rationale for intervention in this instance is equity: to ensure equality between all people, both those who are more likely to experience PSH and those who are less likely to. Advancing equality between the sexes is a large part of that. As the ONS figures above demonstrate, women are significantly more likely to be the victims of PSH and so both those women who are victims of it, and those many others who fear that they might be, are more likely to suffer the adverse effects of such behaviour than are men. This includes the constraining of their day-to-day opportunities. However, the aim is to ensure that all people can be and feel equally safe in public places.
13. The current and future harms being addressed are:
 - The actual PSH crimes which people – mostly women – experience, and the emotional and other harms resulting.
 - The fear on the part of other people that they may experience such harms.

- The fact that people who experience such crime or fear that they may do will constrain their activities, with the knock-on impacts on sectors of the economy.
 - The inequality between the sexes resulting from the fact that women disproportionately experience the above harms.
14. The private sector should not be directly affected by this; the main impacts are on individuals (both victims and perpetrators), and on statutory agencies, particularly in the criminal justice system.
15. There is already a range of interventions to tackle this issue, some led by Government and some not, but only government could create a new criminal offence which is the subject of this consultation.

C. Policy objective

16. The policy objectives are to:
- Reduce the prevalence of PSH in England and Wales.
 - Ensure that when PSH does happen, victims and bystanders are more likely to report it to the police and that the police are more likely to take action.
 - Increase people's – especially women's – feelings of safety.
17. This thereby helps to ensure that:
- People – especially women – feel more confident being in public places (especially at night), with associated positive impacts for their own well-being, and knock-on positive impacts for the economy (for example, more business for the night-time economy) and public services (for example, reduced pressures on mental health services).
 - More perpetrators are brought to justice.
 - Inequalities between the sexes in society are reduced.

D. Options considered and implementation

18. **Option 0:** (Do Nothing). Under this option no change would be made to the law. PSH could continue to be prosecuted under existing criminal offences, such as those in the Public Order Act 1986. The Government's non-legislative measures to tackle PSH, including guidance, funding, and communications, would continue.
19. **Option 1: Create a new offence which means that, when behaviour under section 4A of the POA 1986 is committed, if it is done because of a person's sex, a higher sentence can be issued.**
20. **Option 1** involves the creation of a new offence which applies when behaviour done under section 4A of the Public Order Act 1986 (intentional harassment, alarm, or distress) is committed, when it is done because of a person's sex. First, behaviour which falls under section 4A of the Public Order Act 1986 would need to have been committed – such as when someone uses threatening, abusive or insulting words or behaviour towards another person (or displays to them any writing, sign or other visible representation which is threatening, abusive or insulting), where the perpetrator's intention is to cause the victim harassment, alarm, or distress, and that is indeed the effect produced. The behaviour could be committed in any scenario other than where both the perpetrator and the victim are in a dwelling, and it would be a defence to argue that the perpetrator was in a dwelling and did not realise that their actions would be heard or seen by a person outside that or any other dwelling, or that the conduct was reasonable.

21. The new offence in **Option 1** takes effect when that behaviour was done because of the victim's sex (including presumed sex). Sexual gratification need not be the motivation for the behaviour, although it could be.
22. The offence would be an 'either way' offence, meaning that it could be tried either in the magistrates' court or in the Crown Court, whereas the 'ordinary' section 4A offence could be tried only in the magistrates' court. This means that a higher sentence could be handed down as, whereas the maximum sentence would be the same as for section 4A if the case were tried in the magistrates' court, in the Crown Court the maximum sentence would be two years, compared to (currently) six months in the magistrates' court.
23. **Option 2: Create a new offence which means that, when behaviour under section 4A of the POA 1986 is committed, if it is done because of a person's sex, a higher sentence can be issued – with a list of example behaviours specified.**
24. **Option 2** is the same as **Option 1**, but it provides a non-exhaustive list of examples of PSH behaviour which could be covered by the new offence, namely:
 - Following someone.
 - Making an obscene or aggressive comment towards someone.
 - Making an obscene or offensive gesture towards someone.
 - Obstructing a person who is making a journey.
 - Driving or riding a vehicle slowly near to a person who is making a journey.
25. **The Government does not have a preferred option at this stage.**

E. Appraisal

General assumptions and data

26. The main assumptions and data sources used in this IA are listed below, with more detail on the cost and benefit assumptions given in the relevant sections. The net present value is estimated over 10 years using a 3.5 per cent discount rate, in line with HM Treasury The Green Book guidance⁸. The appraisal starts in the financial year 2022/23, with costs also presented in this year.
27. The effects of each option considered are modelled relative to the counterfactual 'Do-Nothing' baseline. In essence, an option's costs and benefits are those that only exist because of that option being chosen over doing nothing, with **Option 0** therefore having zero costs and zero benefits by definition. In its simplest form, the modelling compares the change in the reporting of PSH following the intervention and how these changes filter down through the Criminal Justice System (CJS).
28. Due to the small differences in the interventions and uncertainty in its impacts, the costs and benefits for **Option 1** and **Option 2** are estimated to be the same.
29. Primary data gaps are as follows:
 - **Current prevalence of PSH.** There is substantial uncertainty on the current prevalence of PSH. PSH is not currently reported on via the Crime Survey for England and Wales (CSEW) nor is it possible to isolate PSH offences from the overarching data recorded by the police. This is because these offences are incorporated into other offence categories including harassment, public order offences and/or violence against the person.

⁸ HM Treasury The Green Book. Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063330/Green_Book_2022.pdf

- **Impact of intervention on reporting.** There is uncertainty on both the current rate of reporting of PSH to the police, and how this will change following intervention.

30. Due to limited data, proxy offences and assumptions have been used to estimate the current prevalence and reporting rate of PSH.

Prevalence of PSH

31. In order to estimate the current prevalence of PSH, police recorded crime data⁹ on ‘public fear, alarm or distress’ has been used as a proxy. This offence has been chosen over ‘harassment’ due to harassment being a course of conduct offence, meaning it only captures instances where the behaviour occurs on two or more occasions. Repeated sexual harassment will likely continue to be captured under the harassment offence group and be unaffected by this legislation change.
32. As ‘public fear, alarm or distress’ captures offences wider than just PSH, an adjustment is made to account for this. Home Office Data Hub (HODH) has provided data¹⁰ on the split between female and male victims of harassment which is used to infer an assumption that the majority of sexual harassment victims are female (67 per cent from April 2019 to March 2021). This is used as the upper bound estimate for estimating what proportion of ‘public fear, alarm or distress’ would be sexual in nature and therefore captured under PSH. Due to a lack of data, estimates of 33 per cent and 17 per cent are used as the central and lower bound estimates respectively which are 50 percent and 25 per cent proportions of this high estimate. These estimates are presented in Table 1:

Table 1, Low, central, and high estimates of the volume of PSH offences report to the police before the intervention, 2022.

Offences reported to the police	Low	Central	High
Public fear, alarm of distress	-	365,000	-
Assumed proportion related to PSH (%)	17	33	67
Estimated PSH (police reported crimes)	61,000	122,000	244,000

Source: Home Office estimates, 2022. Estimates rounded to the nearest 1000.

33. This approach estimates the prevalence of reported PSH cases. However it is known from CSEW data that a large proportion of crimes committed are not reported to the police, especially for sexual crimes. Data from the CSEW highlights the disparity in victimisation and police recorded crimes for sexual offences: there were an estimated 773,000 victims of sexual assault in 2019/20¹¹ compared to 162,985 recorded crimes¹². Data for the years 2016/17 and 2019/20 combined show only 16 per cent of victims of rape or assault by penetration reporting to the police¹³. An adjustment is therefore made to estimate the prevalence of all PSH crimes committed, regardless of whether the crime is reported to the police or not.
34. The lower bound prevalence estimate is informed by the Government Equalities Office (GEO) survey¹⁴ on sexual harassment, which estimates that 67 per cent of sexual harassment crimes are

⁹ Crime in England and Wales, ONS. Available here:

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

¹⁰ HODH provided data from 2019/20 and 2020/21 on the split of sex of victim when recorded for Harassment (8L) offences.

The total of female and male victims is used as the total, removing offences where no sex was identified. The average between these two years is used.

¹¹ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/sexualoffencesinenglandandwalesoverview/march2020>

¹² CSEW, 2021, ONS. Available here:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2021>

¹³ Nature of sexual assault, 2020, ONS. Available here:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/natureofsexualassaultbyrapeorpenetrationenglandandwales/yearendingmarch2020>

¹⁴ Government Equalities Office, 2020 Sexual Harassment Survey. Available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002873/2021-07-12_Sexual_Harassment_Report_FINAL.pdf

not currently reported to the police. The upper bound prevalence estimate is informed by CSEW¹⁵, which estimates that 84 per cent of female sexual assaults are not reported. The midpoint between these two data sources is used as the central estimate. These estimates are presented in Table 2:

Table 2, Low, central, and high estimates of the volume of PSH offences, 2022.

Volumes of PSH in society	Low	Central	High
Estimated PSH (police reported crimes)	61,000	122,000	244,000
Estimated proportion of PSH offences not reported to the police (%)	67	75	84
Estimated PSH (all crimes)	185,000	499,000	1,526,000

Source: Home Office estimates, 2022. Estimates rounded to the nearest 1,000.

Impact of intervention on reporting of PSH

- 35. It is assumed that there will be an increase in the reporting of PSH offences as a result of the introduction of the new offence. This assumption is based on the idea that there will be an increased awareness of the offence, which will increase reporting. There is no evidence to base this assumption on but following workshops with analysts an increase of between 2 and 4 per cent has been estimated, with a central estimate of 3 per cent. This assumption should be reviewed following consultation. These estimates are presented in Table 3:

Table 3, Low, central, and high estimates of the volume of additional PSH offences reported to the police following intervention, 2022.

Volumes of PSH in society	Low	Central	High
Estimated PSH (police reported crimes)	185,000	499,000	1,526,000
Estimated increase in reporting of PSH (%)	1	2	3
Estimated additional PSH offences reported to the police	2,000	11,000	51,000

Source: Home Office estimates, 2022. Estimates rounded to the nearest 1,000.

- 36. Volume estimates are kept constant over the 10-year appraisal period.
- 37. The costs of these extra reported offences are appraised in terms of their impact on the Criminal Justice System, including to the police, legal aid, courts, and prison services. The impact on victim support services is also estimated. These impacts are outlined in the appraisal section below.

Appraisal

- 38. There are assumed to be two impacts of the intervention on the CJS:
 - **Increase in reporting of PSH.** As explained, there is estimated to be an increase in reporting of PSH. These additional reported offences are assumed to progress through the CJS in the same proportions as the ‘public fear, alarm or distress’ offence.

¹⁵ Nature of sexual assault by rape or penetration, CSEW, ONS. Available here: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/natureofsexualassaultbyrapeorpenetrationenglandandwales>

- **Introduction of aggravated sentencing.** The intervention will introduce an aggravated factor which could increase costs to the CJS if offenders were subject to the new sentencing provisions, with the maximum sentence length now being two years. This will impact both the offences of PSH currently estimated to be reported to the police, and the additional offences reported following intervention. This is estimated to only impact the length of prison sentence.
39. Due to lack of data, the proxy offence of ‘public fear, alarm or distress’ is again used to estimate how the reported PSH offences will progress through the CJS.
40. Therefore, it is assumed that 3.1 per cent of reported offences are tried in the Magistrates Court, and 0.1 per cent of reported offences are tried in the Crown Court¹⁶. Of these offences, 6.3 percent of Magistrates’ Court trials and 30.6 per cent of Crown Court trials result in a custodial sentence. These estimates are presented in Table 4:

Table 4: Low, central, and high estimates of the volume of new PSH offences progressing through the CJS after intervention, 2022.

Volumes of PSH in the CJS	Low	Central	High
Estimated PSH reported to the police (new)	2,000	11,000	51,000
Tried in Magistrates’ Court (%)	-	3.1	-
Estimated volumes of offences tried in Magistrates’ Court	80	355	1,605
Given custodial sentence in Magistrates’ Court (%)	-	6.3	-
Estimated volumes of offences given custodial sentence in Magistrates’ Court	5	20	100
Tried in Crown Court (%)	-	0.1	-
Estimated volumes of offences tried in Crown Court	1	6	30
Given custodial sentence in Crown Court (%)	-	30.6	-
Estimated volumes of offences given custodial sentence in Crown Court	0	2	9

Source: Home Office estimates, 2022. Estimates greater than 2,000 are rounded to the nearest 1,000. Estimates less than 2,000 are rounded to the nearest 5. For percentage estimates and estimates less than 10, no rounding is applied.

41. Volume estimates are kept constant over the 10-year appraisal period.

¹⁶ Criminal Justice System statistics, Ministry of Justice. Available here: <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2021>

COSTS

Monetised costs

Set-up costs: familiarisation costs

42. Individuals and organisations will need to become familiar with the change in legislation. Draft clauses for legislative change are estimated to be between 283 and 383 words, with a central estimate of 333 words¹⁷. It is assumed that additional guidance produced by the College of Policing on how to apply the offence will be at a length of 2,000 words¹⁸.
43. The median salary UK in 2020/21 was £31,285¹⁹ a year, this is assumed to increase by the rate of inflation as estimated by Her Majesty's Treasury (HMT)²⁰ to give £32,221 in 2022/23 prices. 1,000 people are assumed to read the legislative change and guidance at a speed of between 200 and 700 words per minute (wpm), with a central estimate of 400 wpm²¹. Familiarisation cost is estimated as:

$$\textit{time taken to read legislation} \times \textit{wage rate} \times \textit{volume of people reading}$$

44. Familiarisation costs are expected to only have an impact in Year 1 of the appraisal period.
45. Familiarisation costs are estimated to be between **£0.1 to £0.3 million**, with a central estimate of **£0.2 million** (2022/23 prices).

Set-up costs: cost of a prison place

46. To account for the current low prison capacity, a set up cost of £250,000²² is estimated to account for the building of a new prison place. These costs only apply in Year 1 of the appraisal period as prison places can be reused in future years.
47. The £250,000 unit cost is multiplied by the additional offences sentenced to a custodial sentence, as presented in Table 4. This is estimated to be between 5 and 100 offences in the Magistrates' Court, and between 0 and 9 offences in the Crown Court as outlined and explained in paragraph 40. The average length of sentence served is also accounted for to estimate how many times the prison place can be reused. This is estimated to be 2 months on average for both Magistrates' and Crown Courts²³.
48. Prison set up costs are estimated to be between **£0.3 to £5.6 million**, with a central estimate of **£1.2 million** (2022/23 prices).

Set-up costs: total cost

49. Set up costs in total are estimated to be between **£0.4 to £5.9 million**, with a central estimate of **£1.4 million** (2022/23 prices). These costs are only incurred in year 1 of the appraisal period.

¹⁷ Draft clauses of 283 and 383 words have been developed as part of the consultation. A central estimate has been estimated as there is uncertainty on which clause will be preferred at this stage.

¹⁸ The estimate of 2,000 words is based on the length of the toolkit developed by the College of Policing for officers on how they can respond to street harassment. This is available here: <https://www.college.police.uk/guidance/violence-against-women-and-girls-toolkit/street-harassment>

¹⁹ Employee earnings in the UK: 2021, ONS. Available here:

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2021>

²⁰ GDP Deflator, HMT. Available here: <https://www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp>

²¹ Words per minute estimates for paper and screen reading, Readingsoft. Available here: <http://www.readingsoft.com/>

²² Estimate provided by Ministry of Justice, 2022.

²³ Criminal Justice System statistics, Ministry of Justice. Available here: <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2021>

Ongoing costs

Ongoing costs: Police costs

50. There will be additional costs to the police following the increase in reporting of PSH. This increase is presented in Table 4 and estimated to be between 2,480 and 51,280 offences each year.
51. The unit cost from the Economic and Social Costs of Crime (ESCC) report²⁴ for Violence without Injury is used to estimate the cost to police for responding to a PSH offence. This cost is used as a proxy as it is the closest similar offence estimated in the report. The unit cost is estimated to be £1,435 (2022/23 prices).
52. Police costs are estimated to be between **£30.6 to £632.8 million (PV)**, with a central estimate of **£139.3 million (PV)** over the 10-year appraisal period.

Ongoing costs: Victim support costs

53. With the estimated increase in police recorded crimes of PSH following the intervention, it is estimated that there will be an increase in demand for victim support services as victims are often referred to these services by police.
54. There is no data on the number of PSH victims who currently access victim support services. Therefore, an estimate from the CSEW on the proportion of female victims of rape or assault by penetration (including attempts) who access victim support²⁵ is used as a proxy. This estimates that 6.4 per cent of victims accessed this service.
55. The unit cost from the ESCC for Violence without Injury is used to estimate the cost to victim support for responding to a PSH offence. This cost is used as a proxy as it is the closest similar offence estimated in the report. The unit cost is estimated to be £12 (2022/23 prices).
56. Victim support costs are estimated to be between **£0.0 to £0.3 million (PV)**, with a central estimate of **£0.1 million (PV)** over the 10-year appraisal period.

Ongoing costs: Court costs

57. There will be additional costs to the courts following the increase in reporting of PSH which are then tried in court. This increase is presented in Table 4 and estimated to be between 80 and 1,605 offences for Magistrates' Courts, and 1 and 30 offences for Crown Courts (see paragraph 40 for a detailed explanation of how these volumes are estimated).
58. Unit costs for both courts have been provided internally by the MoJ and inflated to 2022/23 price year. A 20 per cent optimism bias adjustment has been applied to the unit costs given the uncertainty in the estimates.
59. Court costs are estimated to be between **£0.5 to £10.6 million (PV)**, with a central estimate of **£2.3 million (PV)** over the 10-year appraisal period.

Ongoing costs: Legal aid agency costs

60. There will be additional costs to the Legal Aid Agency (LAA) following the increase in reporting of PSH offences, which are then tried in court.
61. It is estimated that 50 per cent of offenders will be eligible for support in the Magistrates' courts, and 75 per cent in the Crown court. These estimates have been provided by the MoJ.

²⁴ Economic and Social Costs of Crime Report, 2018, Home Office. Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732110/the-economic-and-social-costs-of-crime-horr99.pdf

²⁵ Crime survey for England and Wales, ONS. Available here: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/natureofsexualassaultbyrapeorpenetrationenglandandwales>

- 62. Unit costs for both courts have been provided internally by the MoJ and inflated to 2022/23 price year. A 20 per cent optimism bias adjustment has been applied to the unit costs given the uncertainty in the estimates.
- 63. Legal aid costs are estimated to be between **£0.2 to £4.3 million (PV)**, with a central estimate of **£1.0 million (PV)** over the 10-year appraisal period.

Ongoing costs: Prison costs

- 64. There will be additional costs to the prison service following the increase in reporting of PSH, which are then tried in court and lead to a custodial sentence.
- 65. This cost will apply to both the newly reported PSH offences and those which would have been reported regardless of intervention which will now be subject to an uplifted prison sentence.
- 66. It is estimated using MoJ data on public order offences that the custodial sentence served will increase from an average of 1.02 months to 2.07 months following intervention. This is applied to sentences awarded in both Magistrates' Courts and Crown Courts.
- 67. The monthly unit cost is calculated using data on the annual cost per prison place, estimated to be £44,640²⁶ (2019/20). This is inflated to 2022/23 prices and divided by 12 months, with a 20 per cent optimism bias applied as per MoJ guidance. This results in a monthly estimated cost per prison place of £4,645 (2022/23).
- 68. The monthly unit cost is multiplied by the average sentencing length served, and the volume of offenders estimated to be handed down a custodial sentence.
- 69. Prison costs are estimated to be between **£5.9 to £31.0 million (PV)**, with a central estimate of **£13.0 million (PV)** over the 10-year appraisal period.

Ongoing costs: Total cost

- 70. Ongoing costs in total are estimated to be between **£37.3 to £679.1 million (PV)**, with a central estimate of **£155.7 million (PV)** over the 10-year appraisal period.

Total costs

- 71. Total costs across all monetised set up and ongoing costs, are estimated to be **between £37.6 to £685.0 million (PV)**, with a central estimate of **£157.0 million (PV)** over the 10-year appraisal period.
- 72. The wide range on the costs estimates is driven by the uncertainty in how the intervention will impact reporting rates and the current prevalence of PSH, both reported and unreported.

Non-Monetised costs

- ~~73.~~ Due to lack of data on unit costs, costs to the Crown Prosecution Service have not been estimated. It is likely that these will increase given the volumes increase in offenders being prosecuted.

BENEFITS

Monetised benefits

- 74. It has not been possible to monetise benefits related with the intervention, because of a lack of existing data or literature which can be used to estimate the expected crime reduction benefits from

²⁶ Cost per Prison Place, 2019/20. MoJ. Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929417/costs-prison-place-costs-prisoner-2019-2020-summary.pdf

introducing the new offence. Instead, break-even analysis and non-monetised benefits are presented to indicate how much PSH would need to reduce by in order to offset the costs of the intervention.

Break-even analysis

75. Breakeven analysis has been conducted to assess the number of PSH offences which would have to be prevented to offset the costs of the intervention and provide a positive net present value.
76. The breakeven analysis uses the unit cost estimate from ESCC for Violence without injury to indicate the economic benefit of preventing a single crime. Violence without injury is used as it is the closest related offence to PSH estimated within the ESCC report. This figure is £7,000 in 2022/23 prices. It is unknown if this is an over or underestimate the true cost of PSH to society.
77. This analysis indicates that there would need to be between **5,380 to 97,900** crimes prevented, with a central estimate of **22,450**, to offset the monetised costs of the intervention.

Non-Monetised benefits

78. Despite the lack of monetised benefits, there are expected to be a range of benefits following intervention. These are explained below:
 - **A greater awareness of PSH.** The creation of a new offence may lead to a greater awareness amongst potential perpetrators, victims, and the general public that PSH is illegal. Increased awareness may also alter behaviour through increasing levels of social stigma surrounding the behaviours captured by these offences and an increased likelihood of bystander intervention.
 - **Reduction in offending.** An increased awareness of the law may lead to an increase in reporting to the police from victims and others, and a reduction in perpetration as a result of better understanding that these behaviours are illegal and fear of punishment through the police taking more action. An increased CJS response may also prevent perpetrators from engaging in such behaviours again.
 - **Clearer framework for police and CJS.** A bespoke offence may have the benefit of increasing police understanding of PSH which in turn could result in an improved police response to reports of these crimes. A new offence will also provide a clearer framework for CPS and the court in prosecuting these offences, which combined with an increased awareness amongst the general public making up juries, may allow for a greater level of convictions for these offences.
 - **Increased victim satisfaction.** An improved criminal justice response could improve levels of victim satisfaction by demonstrating to victims that the offence has been taken seriously by police and other CJS agencies. A new offence covering these behaviours may also facilitate access to greater levels of victims of support which can also increase levels of victim satisfaction by providing an avenue to assist victims in managing the effects of the crime.

Total costs and benefits, NPSV, BNPV and net cost to business

79. Total costs are estimated to be between **£37.6 to £685.0 million (PV)**, with a central estimate of **£157.0 million (PV)** over the 10-year appraisal period. Total benefits are estimated to be **zero** due to the lack of data which would enable any benefits to be monetised. Break even analysis has been conducted as an alternative to the NPSV for this reason.
80. The NPSV is therefore estimated to be between **-£37.6 to -£685.0 million (PV)**, with a central estimate of **-£157.0 million (PV)** over the 10-year appraisal period.

81. As there is no cost to business, both the Business Net Present Value (BNPV) and the net cost (EANDCB²⁷) to business are zero.

Table 5: Summary table (direct costs/benefits, NPSV, BNPV and EANDCB)

Summary of Costs and Benefits	Low 10-year impact (£m) PSV	Central 10-year impact (£m) PSV	High 10-year impact (£m) PSV
Costs			
Set-up costs			
Private sector set-up costs	0.0	0.0	0.0
Public sector set-up costs	0.4	1.4	5.9
Total set-up costs	0.4	1.4	5.9
Ongoing Costs			
Private sector ongoing costs	0.0	0.0	0.0
Public sector ongoing costs	37.3	155.7	679.1
Total ongoing costs	37.3	155.7	679.1
Total costs	37.6	157.0	685.0
Benefits			
Private sector benefits	0.0	0.0	0.0
Public sector benefits	0.0	0.0	0.0
Total benefits	0.0	0.0	0.0
Net Present Social Value	-37.6	-157.0	-685.0
Business Net Present Value	0.0	0.0	0.0
Equivalent Annual Net Direct Cost of Business	0.0	0.0	0.0

Source: Home Office estimates, 2022. Figures may not add up due to rounding.

F. Proportionality

The analysis in this IA contains best estimates for the cost and benefits of the proposed policy. Every effort has been made to ensure the analysis presents the best possible estimate of the likely impact of the options, given the time, resource and data available. These have been quantified where data is available, with risks highlighted in Section G. This is a proportionate effort to appraise the proposed policy change.

G. Risks

82. There is limited evidence available on the prevalence of PSH and on the possible impact on prevalence and reporting of sexual harassment following the introduction of a new offence. The analysis presented here is therefore based on a range of assumptions of varying quality. This

²⁷ This is defined as the Equivalent Annual Net Direct Cost to Business.

uncertainty is reflected in the wide cost range. However, there is a risk that the analysis is either under or over-estimating the costs associated with the introduction of a new offence.

83. There is a high risk that the estimates used for the prevalence of PSH are over- or under estimated. Due to a lack of data this analysis uses the proxy offence of 'public fear, alarm or distress' instead which captures offences wider than just PSH. Even though an adjustment is made to account for this, the analysis might still be over- or under estimating the true prevalence of PSH.
84. The analysis assumes that there will be an increased awareness and reporting of PSH following the introduction of a new offence. There is no available data to base this assumption on hence the analysis estimates an increase in reporting of 2 to 4 per cent. There is a high risk associated with this assumption and it should be reviewed and refined following consultation.
85. Another risk is that a new offence could cause an increase in reporting but that, despite the best efforts of the police, evidential challenges mean that there are very few charges and prosecutions. This could lead to disillusionment on the part of women and other victims, a lack of confidence in the law, and a failure to realise many of the benefits outlined in this IA.

H. Direct costs and benefits to business calculations

86. There are no expected direct costs and benefits to businesses as part of this intervention.

I. Wider impacts

87. There are some additional wider impacts that may arise from the creation of a new offence:
 - **Reduction in crimes against women and girls.** Existing evidence related to sexual harassment shows women are more likely to be victims and, where known via the available evidence, men the perpetrator. Both those women who are victims of it, and those who fear that they might be, are more likely to suffer the adverse effects of such behaviour than are men, including the constraining of their day-to-day opportunities. Any intervention that therefore has the potential to reduce the prevalence of these behaviours would lead to greater equality between women and men.
 - **Increased feelings of safety.** Many victims and potential victims report changing their behaviour either as a direct result of experiencing PSH or due to the fear that such harassment may occur. A greater awareness of sexual harassment combined with an improved CJS response and a potential reduction in perpetration may increase women's perceptions of safety, which should help improve their mental health and general well-being.
 - **Benefits to wider society.** Increased feelings of safety and any potential reduction in levels of perpetration may reduce the level of behaviour change which women engage in due to current levels of fear of harassment. This could then lead to wider benefits for sections of the economy, as women feel able to go to, for example, night-time economy venues which they might previously have avoided.

J. Trade Impact

88. There is no expected trade impact as part of this intervention.

K. Monitoring and evaluation plan

89. The introduction of any new offence will be monitored via existing data sources in line with monitoring of existing offences. The best measures of success would be:
- Number of PSH crimes (as measured by a relevant flag) reported to the police.
 - Number of convictions under a new offence.
 - Lower volumes of experiences of PSH behaviour (as measured by the Office for National Statistics' periodic publications on experiences of harassment and perceptions of safety, as based on Opinion and Lifestyle Surveys).
 - Reduced perceptions of fear of being in public places (again as measured by the ONS surveys).
90. There are currently no plans to undertake new data collection to monitor or evaluate the introduction of new offences.

Impact Assessment Checklist

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p>Statutory Equalities Duties</p> <p>The public sector equality duty requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in the course of developing policies and delivering services. [Equality Duty Toolkit]</p> <p>The Home Office’s assessment of this duty found that:</p> <ul style="list-style-type: none"> • A new offence would not lead to direct discrimination, as it would apply equally to everyone, regardless of protected characteristic. • Based on the data assessed, women, LGB people, those covered by the protected characteristic of gender reassignment, younger people, disabled people, and people in some minority ethnic groups are more likely to be victims of PSH than other people. There is some data to back up the anecdotal evidence that men are more likely to be perpetrators. While the effects of a new offence would therefore help (or, in the final case, harm) members of those groups disproportionately, this is not indirect discrimination, as it is a proportionate means of achieving a legitimate policy goal. • Experiencing PSH, and fearing that you may do, have real adverse impacts on people’s health and life opportunities, and hence those groups, as above, who are more likely to experience it (and fear that they will do) will be the most affected. To the extent that a new offence would reduce the prevalence and fear of PSH, it should enhance equality of opportunity between members of those groups and other people. • By its nature, a new offence should reduce harassment as defined in the Equality Act 2010. • A new offence could help to foster good relations between those who experience harassment on the basis of sex (which is not catered for in hate crime legislation) and those who experience it on the basis of some other protected characteristics (which are). It may also foster better relations between men and women. <p>The SRO has agreed these summary findings of the Equality Impact Assessment.</p>	<p>Yes</p>

Any test not applied can be deleted except **the Equality Statement**, where the policy lead must provide a paragraph of summary information on this.

The Home Office requires the **Specific Impact Test on the Equality Statement** to have a summary paragraph, stating the main points. **You cannot delete this and it MUST be completed.**

Economic Impact Tests

<p>Justice Impact Test</p> <p>The justice impact test is a mandatory specific impact test, as part of the impact assessment process that considers the impact of government policy and legislative proposals on the justice system. [Justice Impact Test Guidance]</p> <p>A JiT has been sent to the MoJ.</p>	<p>Yes</p>
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