

Title: Criminal Justice Bill: Sentencing IA No: MoJ066/2023 RPC Reference No: N/A Lead department or agency: Ministry of Justice (MoJ) Other departments or agencies: Home Office	Impact Assessment (IA)			
	Date: 14/11/2023			
	Stage: Legislation			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
	Contact for enquiries: Andrew.Spence1@justice.gov.uk			

Summary: Intervention and Options **RPC Opinion:** Not applicable

Cost of Preferred (or more likely) Option			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£-11.4m	N/A	N/A	N/A

What is the problem under consideration? Why is Government action or intervention necessary?
 The Government is building on action it has already taken to protect the public from the most serious offenders. This includes those who prey upon the most vulnerable such as grooming gangs, or those who murder their partner at the end of a relationship. This Government also recognises the need to ensure victims see justice delivered. The Criminal Justice Bill (the 'Bill') includes measures which amend the sentencing framework to address these issues.

What are the policy objectives of the action or intervention and the intended effects?
 The Criminal Justice Bill will toughen sentences for the worst offenders, including those who prey on vulnerable people, through statutory aggravating factors that will capture grooming behaviour, including those involved with grooming gangs, and those who murder their partner at the end of a relationship. Finally, to ensure victims see justice done, the Bill will clearly set out a mechanism for dealing with and sanctioning offenders who refuse to attend their sentencing hearing.

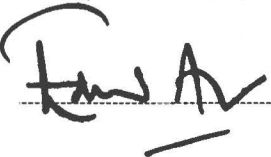
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

- **Option 0:** Do nothing: Under this option the current legislation would continue.
- **Option 1:** legislate for;
 - Measure 1A: A new statutory aggravating factor for murder after the end of the relationship.
 - Measure 1B: A new statutory aggravating factor for grooming behaviour.
 - Measure 1C: The introduction of court powers to require an offender's attendance for sentencing and sanctioning of offenders who do not attend their sentencing hearing. And enshrine in law the powers that prison and escort staff have to use reasonable force to produce the offender.

Option 1 is preferred as it best meets the policy objectives.

Is this measure likely to impact on international trade and investment?				
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	
Will the policy be reviewed? It will not be reviewed. If applicable, set review date: N/A				

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

Signed by the responsible Minister:  Date: 15.11.2023

Summary: Analysis & Evidence

Policy Option 1A-C

Description: Sentencing Measures

FULL ECONOMIC ASSESSMENT

Price Base Year 2023/24	PV Base Year 2024/25	Time Period 10-years	Net Benefit (Present Value (PV)) (£m)		
			Low: /	High: /	Best Estimate: £-11.4m

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
	Low	N/A		
High	N/A	N/A	N/A	N/A
Best Estimate	£2.5m	N/A	£1.4m	£11.4m

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

- It has not been possible to quantify the impacts for measure B due to uncertainty (see section E below) and impacts for measure A fall beyond the 10-year period of this IA.
- The monetised costs for measure C are to HMPPS – Prisons and the Legal Aid Agency. It is estimated that 8 prison places will be required to be available in the 10-year period covered by this IA, at a transition cost of £2.3m to construct. There will also be an ongoing annual running cost of £0.5m for these places; an annual enforcement cost of the non-attendance measure of £0.7m and up-front training cost of £0.2m. For HMPPS, this results in a net present cost of £10.0m. For legal aid, there is an estimated ongoing annual cost of £0.2m; and a net present cost of an estimated £1.4m over the next 10-years.
- In the longer term, measure A is estimated to require a further 42 additional prison places in steady state, reached around 2065, at a 40-year net present cost of £19.2m.

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

- It has not been possible to quantify the impacts for measure B due to uncertainty (see section E below). Measure B is anticipated to require additional investigative and evidential gathering by the police and CPS to evidence grooming behaviour in connection to sexual offences and there may also be LAA costs if cases take longer at court due to the additional evidence being presented.

Other key non-monetised costs are:

- HMCTS: potential additional hearing time required to consider non-attendance at sentencing hearing or additional evidence on grooming in connection to sexual offences.

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

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

It has not been possible to monetise any of the benefits for these measures.

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

As a package, these measures should increase the confidence victims and their families, as well as the public, have in the justice system and protection of the public. New aggravating factors should give victims and the public confidence that the specific harms of domestic murder and grooming in connection to sexual offences are being recognised in sentencing. Measures on non-attendance address public concerns that offenders convicted of serious offences are refusing to attend their sentencing hearings.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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- See Table 2 for a full list of assumptions.
- Key assumptions include implementation in 2024/25; and future estimated volumes are based on 2022 actual data and do not consider any changes in number or type of cases appearing at court.
- Sensitivity analysis has been used to explore how changes in key assumptions affect cost estimates (see 59-64).

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BUSINESS ASSESSMENT (Measure 1A-C)

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



Ministry
of Justice

CRIMINAL JUSTICE BILL

Sentencing measures

November 2023

Evidence Base

A. Background

1. This Impact Assessment (IA) explains the policy rationale and objectives which underpin the sentencing measures in the Criminal Justice Bill and describes the key stakeholders who would be affected. It then provides an overview of the estimated effect of each of the measures on society, including both the monetised and non-monetised impacts.

B. Rationale and Policy Objectives

2. The Criminal Justice Bill will toughen sentences for the worst offenders, including those who prey on vulnerable people, through statutory aggravating factors that will capture grooming behaviour (including those involved with grooming gangs), or those who murder their former partner at the end of a relationship. The Bill will also set out a mechanism for dealing with and sanctioning offenders who refuse to attend their sentencing hearing; we want to ensure offenders hear society's condemnation and the impact of their crimes on their victims.
3. The conventional economic approaches to Government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way the markets operate or there are strong enough failures in existing Government interventions 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 (e.g. to reallocate goods and services to certain groups in society).
4. The overarching rationale for the sentencing measures detailed in the Criminal Justice Bill is one of equity. The measures outlined in this IA propose reform to the sentencing framework that will provide greater public protection (including supporting the Government's strategy to tackle violence against women and girls); make sure that the options available to the courts reflect the seriousness of the offences committed and reflect the impact of the crime; provide victims with a sense that justice has been delivered; and increase public confidence in sentencing. Reforms to the sentencing of domestic homicide will also give domestic murders specialist consideration in the sentencing framework.

Measure A End of relationship as an aggravating factor

5. Around a quarter of all homicides in England and Wales are domestic (committed by the partner, ex-partner or relative of the victim).¹ Over the last 10 years, this represents an average of nearly 160 homicides per year, with almost 90 of these being committed by a partner or ex-partner.
6. In July this year the full Government response to the independent Domestic Homicide Sentencing Review undertaken by Clare Wade KC was published.² In this response, the Government proposed four legislative measures to give domestic homicides specialist consideration in the sentencing framework for murder for the first time.
7. The Government has already laid a draft statutory instrument for three of these measures:
 - Violence which amounts to overkill will be made a statutory aggravating factor for murder.
 - A history of controlling or coercive behaviour by the perpetrator against the victim will be made a statutory aggravating factor for murder.
 - A history of controlling or coercive behaviour by the victim against the perpetrator will be made a statutory mitigating factor for murder.

¹ [Homicide in England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

² [Domestic Homicide Sentencing Review and government response - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

8. The estimated impacts of the above measures are set out in the impact assessment published alongside the draft statutory instrument. This impact assessment includes the remaining legislative measure announced in the Government's response to the Review, to make murder which takes place at the end of a relationship a statutory aggravating factor, which is being brought forward in this Bill.
9. In 40% of the murder cases analysed for the Review (see paragraphs 28 to 31) the murder occurred at the end, or perceived end, of the relationship. In all of these cases, the perpetrator was male, and in almost two-thirds of them, a history of behaviour which was controlling or coercive was also identified.
10. Further analysis of the sentencing remarks in these cases also found that in some instances the sentencing judge appeared to consider the provocation or the distress caused to the perpetrator by the breakdown of the relationship as mitigation for the crime.
11. A murder involving resentment or jealousy by the perpetrator at the end of the relationship is a significant feature of cases involving behaviour which was coercive or controlling against the victim. It is the final controlling act of an abusive partner; "if I can't have you, no-one will".³

Measure B Grooming behaviour aggravating factor

12. In recent years, there have been a number of high-profile prosecutions of grooming gangs, including in Rotherham, Telford, Newcastle, Rochdale and Oxford. In 2014, the Independent Inquiry into Child Sexual Exploitation in Rotherham 1997–2013 identified that at least 1,400 children and young people in Rotherham had been sexually abused or exploited.
13. In April 2023, as part of a wider package of measures, the Government announced the forthcoming introduction of a statutory aggravating factor targeting those involved in grooming gangs.
14. This new statutory aggravating factor will enable courts to reflect the seriousness of grooming behaviour, including by grooming gangs' members. It will capture offenders who demonstrate grooming behaviours in connection to sexual offences against those under 18 and those who knowingly take advantage of children who they know to have been groomed by others. An aggravating factor makes an offence more serious and is taken into account by the Court when deciding the length of a sentence.

Measure C Attendance at sentencing hearings

15. There have recently been a number of cases where serious offenders have refused to attend their sentencing hearing. An offender's refusal to attend their hearing can cause anger and upset for victims and their families who see this as a final insult, and this issue has generated strong public feeling.
16. Currently, an offender has a right to attend their sentencing hearing, but there is no general obligation for them to do so. The Government is therefore creating a new power in legislation so that the court is able to directly order an offender to attend the sentencing hearing, where the judge considers it to be necessary. Any offender who breaches this court order by refusing to attend without a reasonable excuse will face an additional sanction of up to 24 months' custody. The measure will apply to all offenders convicted of an offence which carries a maximum penalty of life imprisonment.
17. Alongside this, the Government is creating an express power in legislation for judges to require the attendance of offenders for sentencing hearings, where they consider it to be in the interests of justice. We will also enshrine in law the power of prisons and Prisoner Escorting and Custody

³ Stark (Evan), *Coercive Control "How men entrap women in personal life"* OUP (2007) p208.

Service (PECS) staff to use reasonable force to produce the offender, where it is necessary, reasonable and proportionate.

18. Taken together, these measures will send a clear message to offenders that they must attend the sentencing hearing where the court requires them to do so, and that there are consequences to their refusal.

C. Affected Stakeholder groups, organisations and sectors

19. A list of the main groups and stakeholders who would be affected by the measures described in this IA is shown below:

- Victims and their families;
- Offenders and their families;
- The Public;
- The Police;
- The Crown Prosecution Service (CPS);
- HM Courts and Tribunal Service (HMCTS);
- The Legal Aid Agency (LAA);
- Prisoner Escorting and Custody Service (PECS);
- HM Prison and Probation Service, which includes both the Prison Service (HMPPS-Prison Service, or just 'prison services'); and;
- Youth Custody Service (YCS).

D. Description of options considered

20. To meet the policy objectives, the following options are assessed in this IA:

- **Option 0:** Do nothing: Under this option current legislation would continue.
- **Option 1:** Implement the Criminal Justice Bill measures to introduce a new statutory aggravating factor for murder after the end of the relationship; a new statutory aggravating factor for sexual grooming; and ways of dealing with and sanctioning offenders who do not attend their sentencing hearing.

Option 0:

21. Under this option, the problems identified above would continue. Therefore, this option has been rejected as it would not address the policy objectives.

Option 1:

22. The core legislative measures which are considered within this IA are:

- Measure 1A, introduce a new statutory aggravating factor for murders which take place at the end of relationship or when the victim has expressed a desire to leave the relationship.
- Measure 1B, introduce a new statutory aggravating factor for grooming behaviour.
- Measure 1C, introduce a power to make it clear that judges can order the attendance of offenders at their sentencing hearing, and sanction those who refuse to attend with up to two years imprisonment additional to the sentence; and legislate for the power of courts to require prisons to produce an offender for the hearing, and enshrine in law the existing powers of staff to use reasonable force to ensure attendance.

E. Costs and Benefits Analysis

23. This sentencing IA summarises the main monetised and non-monetised impacts of the above legislative measures on individuals and groups in the UK. The costs and benefits of each legislative measure are compared to the “do nothing” option. IAs place a strong emphasis on valuing costs and benefits in monetary terms. However, there are often important aspects of a policy that cannot readily be monetised – e.g., the effects on particular groups in society or changes in equity and fairness.
24. These impacts have been assessed using HM Treasury Green Book guidance. To make the estimates for each measure comparable, we have adopted the following conventions:
- Monetised costs and benefits are stated in current, that is 2023/24, prices.
 - The Net Present Cost (NPC) of each measure has been calculated for a ten-year period starting in 2024-25. A discount rate of 3.5 per cent has been used. For the measure where a 40-year NPC has been calculated, a 3 per cent discount rate was used for impacts occurring after the 30-year point.
 - Costs are rounded to the nearest hundred thousand.
 - Where appropriate, 20% optimism bias has been applied to future costs.
 - Unless otherwise stated, the annualised costs are those which would be achieved in ‘steady state’ (i.e. when the measure is fully in operation).
25. As is the case in all MoJ IAs, the direct impact on offenders of changes to the sentencing framework are not included. However, it is possible that changes in sentencing may have impacts on the offender after release or on their families and other dependents.

Data sources

26. The following are the main sources of data and evidence used to inform this IA.

Measure A End of relationship as an aggravating factor

27. **Homicides in England and Wales statistics.** Statistics on homicides are published by ONS based on extracts from the Home Office Homicide Index which contains detailed record-level information about each homicide recorded by police in England and Wales.⁴ Whilst a robust source of data, figures are subject to revision as cases are dealt with by the police and by the courts, or as further information becomes available.
28. **A case file review** of intimate partner domestic homicide sentencing remarks. The sentencing remarks of a sample of 120 cases of domestic homicide between 2018 and 2020 where the victim was a partner or ex-partner of the offender were analysed to inform the Domestic Homicide Sentencing Review (findings summarised at Appendix D of the report).⁵ This included collating data on the offence sentenced for, tariff/sentence length, aggravating and mitigating factors, use of a weapon, as well as factors particularly relevant to the review.
29. The case file analysis collated data that is not routinely centrally available. As domestic homicides are sentenced and recorded as murder and/or manslaughter offences in court data and therefore MoJ sentencing statistics, it is not possible to identify domestic homicides as a subset in MoJ sentencing data. Aggravating and mitigating factors are likewise not centrally available, or further details such as the murder taking place at the end of a relationship.

⁴ [Homicide in England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

⁵ [Domestic Homicide Sentencing Review and government response - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

30. This case file analysis has therefore been instrumental in informing this IA, including further analysis for this IA. However, there are key limitations to note:

- Due to the methods used to identify relevant cases to analyse, there is no guarantee that every relevant case from the period reviewed has been identified, though this was the intention. Comparing the numbers included in the case file analysis to homicide statistics suggests the case file is an undercount.
- Sentencing remarks are, by their nature, a summary of how the sentence was reached and are not a full representation of the case. As such, findings are limited to what has specifically been mentioned in the remarks.

31. For these reasons, the findings from the sentencing remarks analysis are considered indicative.

Measure C Attendance at sentencing hearings

32. **Internal HMCTS Management Information (MI)** was extracted from the Crown Court case management systems Xhibit and Common Platform for those remanded to custody who were recorded as absent for sentencing.

33. This was the best data available centrally on non-attendance at sentencing hearings to inform this impact assessment. However, there are key limitations to note:

- This data is internal MI and therefore has not been subject to the same level of checks as published data.
- Although care is taken when processing and analysing the data, the details are subject to inaccuracies inherent in any large-scale case management system and there are therefore inevitable limitations to this data.
- Figures as at 9 May 2023. Data are taken from a live management information system and can change over time.
- The data relates only to defendants remanded in custody and who have been recorded as absent.
- The hearing types from which the data has been extracted only relate to 'Committal for Sentence' and 'For Sentence'.
- Data has not been cross-referenced with case files. Figures will include defendants who were unable to attend, for example those who were sick.

34. **Published Criminal Justice statistics**⁶ for 2022 was used for data on the prevalence of sentences for the relevant offences and current sentencing practice. Statistics on sentencing at the Crown Court are derived from Xhibit and Common Platform data. As Official Statistics, this data has gone through a range of quality checks, however, is still subject to inaccuracies inherent in any large-scale case management system.

Costs of Option 1:

Measure A End of relationship as an aggravating factor

35. This measure is expected to increase tariff lengths for relevant murder cases and is therefore expected to have prison place impacts. Based on the assumptions set out in Table 2, a 'steady state' of 42 additional prison places is estimated to be required by 2065. Due to the existing tariff lengths

⁶ Criminal Justice System statistics quarterly: December 2022 - GOV.UK (www.gov.uk)

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given for murder, the impact from this measure is not expected to be felt until around 2040, with steady state not being reached until around 2065.

36. This estimate was produced by assuming an increase to tariff length of two years, where offenders are given a 12 or 15-year starting point, and of one year where offenders are given a 25-year or 30-year starting point. This assumption is highly uncertain. Sentencing is a matter for the independent judiciary based on all the circumstances of a case including any aggravating or mitigating factors. As such, it is not possible to identify the impact of individual aggravating or mitigating factors as the case is considered as a whole to determine sentence.
37. These impacts fall outside of the 10-year period covered by this IA to be consistent with the other IAs produced for the Criminal Justice Bill. However, we have produced a 40-year Net Present Cost (NPC) to cover the full estimated impact of this measure, with an estimated £19.2m cost which includes the construction of 42 additional prison places (gradually added as the impact of this policy ramps up over time) and the running costs for these places once in use.
38. We do not anticipate this new aggravating factor to require additional investigation by the police (as a murder taking place at the end of relationship will usually be largely self-evident), and therefore we do not anticipate an increase to their cost per case for investigation of domestic homicides.
39. Consequently, as we do not expect additional evidence to be presented at court as a result of this new aggravating factor, we do not anticipate resource impacts for the CPS, HMCTS or the LAA for this measure.
40. As murder carries a mandatory life sentence, all cases (except those given a Whole Life Order) are already subject to Parole Board release and supervision on release (if granted) by the Probation Service. Therefore, no additional costs are expected for these organisations.
41. These estimates do not consider any impact due to the other sentencing measures being implemented in response to the Domestic Homicide Sentencing Review as they are covered by the separate impact assessment published alongside the draft statutory instrument.

Measure B Grooming behaviour as an aggravating factor

42. It has not been possible to quantify any costs for this measure at this point due to the limited data available, such as on the prevalence of this factor within sexual offending or how grooming is already considered in cases where it is already identified and treated as an aggravating factor. It is expected that there will be additional investigative work and evidential gathering required by the police and CPS to evidence grooming behaviour in connection to sexual offences. There may also be additional CPS and LAA costs if cases take longer at court due to the additional evidence being presented. Whilst cases potentially taking longer at court is not expected to have direct additional costs for HMCTS, this may have a knock-on effect for other cases by delaying their start. It is expected that, on average, this measure will increase sentence lengths for relevant offences which will have prison place impacts.

Measure C Attendance at sentencing hearings

43. Based on the assumptions set out in Table 2, the sanctioning of non-attendance at sentencing hearings is estimated to require 8 additional adult prison places at steady state. Due to the range of sentence lengths given across the relevant offences, impact will slowly ramp up, starting within the first year after implementation and reaching steady state around 10 years after implementation. After 10 years, there may be negligible further prison place impacts for those sentenced to longer or indeterminate sentences. The 10-year NPC for the construction and running of these additional places is estimated to be £4.4m.
44. The assumption was made, set out in Table 2, that an additional half sitting day per case may be required, due to the extra sentencing hearing that may take place. Estimated LAA Crown Court costs

per sitting day have been derived from published data^{7,8} from 2019/20, the most recent year that is assumed to be representative of costs per sitting day at steady state and increased due to fee increases since then.^{9,10} As shown in Table 1, the 10-year NPC for extra legal aid costs associated with this measure is estimated to be £1.4m.

45. It is assumed that an additional hearing may be required to consider and sanction for breach of the non-attendance order. As court capacity is fixed, no direct additional costs are expected for HMCTS. However, this additional hearing time may have a knock-on effect for other cases by delaying their start. As the overall number of extra hearings is expected to be 37 per year (subject to caveats outlined in paragraphs 32 to 33), it has not been considered proportionate to attempt to quantify the impact of these knock-on effects.
46. As non-attendance at the sentencing hearing occurs during the court process, no impacts are expected for police or the CPS. As this measure does not affect release processes or supervision on release, no impacts are expected for the Parole Board or Probation.
47. Based on the assumptions set out in Table 2, the annual enforcement cost of this measure is estimated to be £0.7m to HMPPS and Prison Escort and Custody Service for the planned use of force involving multiple trained officers with full PPE. This measure will also require £0.2m in year 1 to introduce new design and implementation training for existing staff to deal with serious incidents of offenders' non-attendance to sentence hearings. In total, the enforcement aspect of this measure is estimated to have a net present cost of £5.5m.

Cross-cutting non-monetised costs

48. Cross-cutting non-monetised costs are:

- HMPPS - Prison Service. There is a risk that offenders spending longer in prison as a result of these measures may compound prison capacity and overcrowding pressures (if there is not enough prison capacity), which may also reduce access to rehabilitative resources and potentially increase prison instability, self-harm and violence.
- Offenders and their families. A longer time in custody may strain familial and community links, could limit offender motivation for reengagement in rehabilitation, and ultimately increase the likelihood of reoffending.

Table 1: Summary of monetised costs by measure

Measure	10-year Net Present Cost				
	Police/CPS	HMCTS	LAA	Prisons	Total
A: end of relationship aggravating factor	/	/	/	/	/*
B: grooming behaviour as an aggravating factor	/	/	/	/	/
C: non-attendance at sentencing hearings	/	/	£1.4m	£10.0m	£11.4m

*Note that there are monetised costs for Measure A outside of the 10-year timeframe (see 47).

Benefits of Option 1:

Monetised net present benefits

⁷ HMCTS management information - May 2023 - GOV.UK (www.gov.uk)

⁸ Legal aid statistics: January to March 2023 - GOV.UK (www.gov.uk)

⁹ The Criminal Legal Aid (Remuneration) (Amendment) (No. 2) Regulations 2023 (revoked) - Impact Assessment (legislation.gov.uk), Table 3, p13

¹⁰ Impact Assessment template (justice.gov.uk), paragraph 102

49. It has not been possible to quantify any of the benefits expected from these measures.

Non-monetised benefits

50. As a package, these measures should increase the confidence victims and their families, as well as the general public, have in the justice system and protection of the public.

Measure A End of relationship as an aggravating factor

51. This measure, alongside the other measures being implemented following Clare Wade KC’s Domestic Homicide Sentencing Review, will ensure that the seriousness of domestic murders and the particular harms that arise in these cases will be recognised in the sentencing framework for murder.

52. This will build on the Government’s zero tolerance approach to violence against women and girls and ensure that victim’s families, and the public, have confidence in the justice system to respond to cases of domestic murder.

Measure B Grooming behaviour as an aggravating factor

53. This measure demonstrates the Government’s commitment to tackling abuse perpetrated by grooming gangs.

54. It will aggravate the sentences of offenders who demonstrate grooming behaviours in connection to sexual offences against those under 18 and those who knowingly take advantage of children who they know to have been groomed by others.

55. It will enable courts to ensure that grooming gang members face the toughest possible sentences for their crimes, giving victims and the public confidence that justice has been served.

Measure C Attendance at sentencing hearings

56. This measure is a direct response to public concerns that offenders convicted of serious offences are refusing to attend their sentencing hearings. It supports the principle that justice must be seen to be done and its introduction will give the public confidence that the justice system is equipped to address such cases.

57. This measure will create clearer processes for addressing non-attendance. Judges will be given a new power to directly order the offender to attend court and to ensure there is a consequence for offenders who fail to comply with such an order. It will also enshrine in law the procedure of using reasonable force to compel attendance, providing the courts and prison and escort staff with greater clarity.

F. Risks and assumptions

58. The above impacts have been estimated on the basis of a number of assumptions. As each of these assumptions are associated with some degree of uncertainty, there are risks associated with each estimate. Table 2 below sets out the main assumptions and the associated risks and uncertainties.

Table 2: Main assumptions, risk and uncertainties

Summary	Main assumptions	Risks/uncertainties
Cross-cutting assumptions		
Implementation date	Legislation will come into effect in 2024.	Any delay to the implementation of the policy will delay the impacts by an equal amount of time.
Prison estate place costs	Additional adult prison places will need to be constructed to meet any additional prison demand. It is assumed that the construction	Adult prison place construction cost is an average based on the total amount of money allocated to the construction of 10,000 additional

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	<p>cost of each adult prison place will fall in the two years before it is needed.</p> <p>The construction cost of an additional prison place is £290,000. This is an indicative cost based on the publicly announced funding of £2.5bn for 10k prison places in 2019¹¹ with inflation applied, although given the scale of the expansion and current high levels of inflation this is likely to be a low estimate.</p> <p>The average annual cost of a prison place is £51,000 per year (2023/24 prices), based on the published figure of £46,696¹² (2021/22 prices and we have assumed that prison costs will continue to rise in line with inflation).</p> <p>Optimism bias of 20% has been applied to future prison running costs.</p> <p>Net present value has been calculated by applying a 3.5% discount rate for each future year (3% for impacts after 30-years' time). The gross domestic product (GDP) deflator has been used.</p>	<p>prison places over a 10-year period and inflated to 2023/24 prices. The exact construction profile will vary depending on when additional prison capacity is needed. This depends on a range of factors, primarily natural changes in the prison population and future policy changes that increase or decrease the prison population. Because of this, it is not possible to allocate precise prison places and costs for each additional place at this point.</p> <p>Prison estate unit costs cover the day-to-day running costs of a prison only, and do not incorporate any capital costs associated with construction, investment and costs associated with any developing or contracted out services or rehabilitative activities these prisoners might undertake while in custody.</p>
Measure A End of relationship an aggravating factor		
Impact start date	As this option will only apply to offences committed after the implementation date of the legislation, this option is assumed to start to be reflected in sentences given from 2025-26 due to the time lag between committal of an offence and date of sentence.	Any delay to the implementation of the policy or when impacts begin to be felt will delay the impacts by an equal amount of time.
Prevalence of certain characteristics within homicides	<p>The Domestic Homicide Sentencing Review case file review sample is assumed to be representative of intimate partner domestic homicides and has been used to inform assumptions on the prevalence of certain characteristics within intimate partner domestic homicides.</p> <p>In the case file analysis, all murders that occurred at the end of the relationship had female victims. For this IA, impacts for this policy option have therefore been assumed to only apply to murder cases with a female victim.</p> <p>81 murder cases in the sample had a female victim.</p> <p>Almost half (44%) of murder cases with a female victim occurred either at the end of a relationship or perceived end of the relationship. Of these, most (69%) had a 15-year starting point, but there were also cases with a 25-year and 30-year starting point and one youth case with a 12-year starting point.</p> <p>The end of relationship aggravating factor will apply only to intimate partner domestic</p>	<p>Given the limitations of the case file data (see 28 to 31), these assumptions are highly uncertain.</p> <p>It is difficult to predict future changes in the types of offences being committed and prevalence of certain characteristics. If there are significant changes in offences being committed, this will affect the estimates in this IA.</p>

¹¹ 10,000 extra prison places to keep the public safe - GOV.UK (www.gov.uk)

¹² Costs per prison place and costs per prisoner 2021 to 2022 summary (publishing.service.gov.uk)

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	for consideration for release by the Parole Board. It is assumed that this process and the length of time spent in prison post-tariff will not be impacted by this measure. Based on published data on the median time served in prison prior to first release from a mandatory life sentence ¹³ and internal MI, an assumption of a median 3 years spent in prison post-tariff prior to release is assumed in this IA.	
Wider Criminal Justice System impacts	<p>As the relationship between the perpetrator and victim should already be considered in investigations and court cases, it is assumed that there will be no additional resource/costs for police, CPS, HMCTS or LAA.</p> <p>As murder already receives a mandatory life sentence with a minimum tariff length after which release is subject to the Parole Board, it is assumed that there will not be any additional costs to the Parole Board.</p> <p>Likewise, as offenders are already subject to Probation supervision for life on release, it is assumed there will not be any additional costs to HMPPS – Probation. Any cost savings to probation due to offenders spending more time in prison are assumed to be negligible so have not been factored into this analysis.</p>	Any impacts that differ from these assumptions may affect estimates modelled.
Measure C Attendance at sentencing hearings		
Impact start date	As legislation will apply to sentencing hearings scheduled from implementation of the Bill, impacts are assumed to start from 2024-25.	Any delay to the implementation of the policy or when impacts begin to be felt will delay the impacts by an equal amount of time.
Scenarios for the enforcement of non-attendance	<p>In the low scenario, we have assumed judges would not use the policy extensively (e.g., involving planned use of force and full PPE) to force offenders into the court room for their sentencing. Therefore, we have assumed the lowest level of cost is £0.</p> <p>A reasonable high scenario would involve judges deciding to use full PPE for every case of an individual deciding not to attend sentencing. This would include a full day of training for staff to deal with these incidents of non-attendance.</p> <p>We have based enforcement costs on the midpoint of the low and high scenarios.</p>	If there are any variations in non-attendance at sentence hearing, it will impact enforcement costs estimated in this IA.
Unit cost per incident of non-attendance (high scenario)	In the high scenario described above, we have used the National tactical response group (NTRG) running costs and incidents per year to estimate a unit cost of a response to a serious incident in prisons that require a full PPE response of multiple trained officers.	<p>The unit cost estimate is based on the latest NTRG assumptions. However, NTRG running costs and incidents per year may vary year on year, impacting the unit cost.</p> <p>Therefore, any variation in these assumptions will impact the estimates in this IA.</p>

¹³ Prison releases: 2022, [Offender Management Statistics quarterly: October to December 2022](https://www.gov.uk/government/statistics/offender-management-statistics-quarterly) - GOV.UK (www.gov.uk)

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<p>Prevalence of non-attendance at sentencing hearings</p>	<p>Internal HMCTS MI for 2022 has been used to inform assumptions on the prevalence of non-attendance at sentencing hearings for the relevant offences.</p> <p>We have assumed the prevalence of non-attendance for the relevant offences will remain constant in future years.</p> <p>The prevalence of non-attendance in the youth estate is unknown but is not considered a significant issue.</p>	<p>Given the limitations of the HMCTS MI data (see 32-33), these assumptions are highly uncertain.</p> <p>It is difficult to predict non-attendance which is a personal decision by the offender. It is likewise difficult to predict future changes in the types of offences which offenders who do not attend their sentencing hearings will commit and for which they will be sentenced at courts.</p> <p>If there are significant changes in the rate of non-attendance and the offence which the non-attending offenders have committed, this will affect the estimates in this IA. To reflect this uncertainty, sensitivity analysis has been conducted to model impact if prevalence is higher than assumed.</p> <p>If there are any differences in non-attendance rate by children compared to adults, this may affect the estimates in this IA.</p>
<p>Sentencing impact</p>	<p>Published 2022 sentencing data has been used to capture current sentencing practice for each relevant offence. It is assumed that this will remain constant in future years.</p> <p>We have assumed the sanction for non-attendance at a sentencing hearing to be 5% of the immediate custodial sentence length of the original offence.</p>	<p>It is difficult to predict future changes in the types of offences being committed and sentences given. If there are significant changes in offences being committed or sentences given for these offences, this will affect the estimates in this IA, as the length of a sentence may impact the length of a sanction for non-attendance.</p> <p>Sentencing is a matter for the independent courts based on all the circumstances of a case.</p> <p>In the case of non-attendance at sentencing hearings the length and type of the sanction for breach of the order will also be a judicial decision. It is not possible to identify the specific impact of non-attendance.</p> <p>These assumptions are therefore highly uncertain as they are dependent on court behaviour and the circumstances of future individual cases.</p> <p>To reflect this uncertainty, sensitivity analysis has been conducted to model impact if changes to tariff/sentence lengths is greater than assumed.</p>
<p>Prison impacts</p>	<p>Due to the offences included in this policy option, a two-thirds release point for the original offence, where a determinate sentence has been given, is assumed.</p>	<p>Any impacts that differ from these assumptions may affect estimates modelled.</p>
<p>Wider Criminal Justice System impacts</p>	<p>As this policy relates to non-attendance at the sentencing hearing, no impact is expected for police or CPS.</p> <p>For HMCTS, it is assumed that an additional hearing may be required to consider and sentence for non-attendance. Whilst no costs are expected due to this, there may be implications for other cases waiting to be heard due to these court cases taking longer to complete.</p>	<p>Any impacts that differ from these assumptions may affect estimates modelled.</p>

	<p>For LAA, it is assumed that there will be additional costs (see Table 1), based on cases requiring an additional half sitting day at the Crown Court.</p> <p>Estimated LAA Crown Court costs per sitting day (£7,500) have been derived from published data^{14,15} from 2019/20, the most recent year that is assumed to be representative of costs per sitting day at steady state and increased due to fee increases since then.^{16,17} LAA cost estimates are based on legal aid funding for the Litigator Graduated Fee Scheme and Advocate Graduate Fee Scheme.</p> <p>Optimism bias of 20% has been applied to these costs.</p> <p>Net present value has been calculated by applying a 3.5% discount rate for each future year. The gross domestic product (GDP) deflator has been used.</p> <p>As this measure does not affect release processes or supervision on release, no impacts are expected for the Parole Board or Probation.</p>	
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Sensitivity analysis

Measure A End of relationship as an aggravating factor

- 59. Impact estimates in this document are based on a number of assumptions set out in Table 2 above. The assumption related to the potential impact on tariff lengths given is highly uncertain as sentencing is a matter for the independent judiciary based on all the circumstances of a case including any aggravating or mitigating factors. To reflect this uncertainty, sensitivity analysis was conducted to illustrate how prison place impacts could vary should the impact on tariff lengths be greater than assumed in the main impact analysis.
- 60. This estimate was produced by assuming an increase to tariff length of four years, where offenders are given a 12 or 15-year starting point, and of two years where offenders are given a 25-year or 30-year starting point. This is double the impact assumed in the main analysis.
- 61. In line with the main impact analysis, a 40-year NPC was produced to cover the full estimated impact of this measure, with an estimated £36.1m cost which includes the construction of 83 additional prison places (gradually added as the impact of this policy ramps up over time) and the running costs for these places once in use. This is an additional £16.9m and 41 additional prison places compared to the main analysis estimate.

Measure C Attendance at sentencing hearings

- 62. Sensitivity analysis was used to illustrate how impact estimates for the sanctioning of non-attendance at sentencing hearings may vary if:

¹⁴ HMCTS management information - May 2023 - GOV.UK (www.gov.uk)
¹⁵ Legal aid statistics: January to March 2023 - GOV.UK (www.gov.uk)
¹⁶ The Criminal Legal Aid (Remuneration) (Amendment) (No. 2) Regulations 2023 (revoked) - Impact Assessment (legislation.gov.uk), Table 3, p13
¹⁷ Impact Assessment template (justice.gov.uk), paragraph 102

- a. Prevalence of non-attendance varied from that assumed, given the caveats to data on non-attendance outlined above (paragraphs 32-33).
- b. The sanction for non-attendance was higher than assumed as the length and type of sanction will be a judicial decision.

63. To show potential impact should the prevalence of non-attendance be higher than assumed, we modelled the impact of an additional 10 cases of non-attendance being sanctioned at sentencing hearings. For an additional 10 cases, the 10-year NPC is estimated to increase by £1.5m (£0.4m for LAA; £1.1m for HMPPS – Prisons), with an additional 2 prison places required in steady-state.

64. In the main analysis, we modelled the sanction as 5% of the sentence given for the original offence. If this were to double to 10%, then the 10-year NPC for the sanctioning of non-attendance at sentencing hearings would be £10.0m (£1.4m for LAA; £8.5m for HMPPS – Prisons). This is an additional £4.1m and 7 additional prison places compared with the main analysis estimate.

G. Wider Impacts

Equalities

65. We hold the view that none of the measures in the Government's response are likely to be directly discriminatory within the meaning of the Equality Act 2010 as they apply equally to all offenders being sentenced.

66. An Equalities Impact Assessment has been carried out in addition to this IA. Please see this for further detail.

Better Regulation

67. These proposals are not considered to be qualifying regulatory provisions and are out of scope of the Small Business Enterprise and Employment Act 2015.

Environmental Impact Assessment

68. We expect there to be no environmental impacts as a result of the options within this IA. The policies meet the environmental principles in accordance with the Environment Act 2021.

International Trade

69. There are no international trade implications from the options considered in this IA.

H. Monitoring and Evaluation

70. The impact of the changes will be monitored by MoJ or associated agencies.