



Home Office

## Equality Impact Assessment [EIA] – Crime and Policing Bill Policing Measures

### 1. Name and outline of policy proposal, guidance, or operational activity

This Equality Impact Assessment covers the following measures included in the Crime and Policing Bill:

1. Police Accountability Reform
2. Reforms to Police Appeal Tribunals
3. Access to DVLA records
4. Extension of Drug Testing on Arrest
5. Powers of Entry to search for and recover stolen items
6. Foreign National Conditional Cautions

#### Police Accountability Reform

Three measures in the Crime and Policing Bill will help speed up hand-offs between the IOPC and CPS and help the system work fairly for all involved. The Government published a factsheet regarding the Accountability Review on 24 October 2024.<sup>1</sup> The three measures are:

- Raising the threshold for IOPC or police referrals of officers to the CPS for a charging decision.
- Speeding up processes by allowing the IOPC to send cases to the CPS where there is sufficient evidence, prior to their final investigation report; and,
- Putting the IOPC victims' right to review policy on a statutory footing.

#### Police Appeal Tribunals (PATs)

This measure will:

- enable a chief officer of a police force in England and Wales to appeal to the PAT on the finding or outcome of a police misconduct hearing in respect of one of their officers.
- enable a local policing body to appeal to the PAT on the finding or outcome of a police misconduct hearing or accelerated misconduct hearing in respect of the chief officer of their force.
- enable the Director General of the Independent Office of Police Conduct (IOPC) to appeal to the PAT on the finding or outcome of a misconduct hearing or accelerated misconduct hearing in a case in which the IOPC has presented.

#### Access to DVLA Records

This measure will:

---

<sup>1</sup> [Factsheet on the government's policy package on police accountability - GOV.UK](#)

- Clarify which organisations and individuals can access Driver and Vehicle Licensing Agency (DVLA) driving license data for law enforcement purposes. The following organisations already have access. (who already have *de facto* access) and add a small number of additional organisations. Those with access will include:
  - Police constables
  - Civilian police staff working for territorial police forces and the British Transport Police
  - National Crime Agency officers
  - Members or members of staff of the IOPC
  - Members of staff of the Police Investigations and Review Commissioner
  - Members of Staff of the Police Ombudsman for Northern Ireland
  - Members of Staff of the Independent Commission for Reconciliation and Information Recovery
  - Members of a service police force
  - Investigating Officers and members of staff of the Service Police Complaints Commissioner
  - A member of an Island police force (i.e. Crown Dependencies)
  - A member of the Royal Gibraltar Police
  - A member of the Gibraltar Defence Police.
- Provide a delegated power to allow the Secretary of State to make regulations providing for a new Code of Practice, whilst improving transparency on the use of DVLA data through an annual report.
- Expand the purposes for which automatically provided DVLA data can be used by individuals and organisations with access, beyond the current limitation of checking whether a person is driving within the terms of their licence and Road Traffic Act enforcement. Organisations will need to sign up to guidance providing consistent minimum requirements for oversight, inspection and training before they can use the data for wider purposes.

### **Extension of Drug Testing on Arrest (DToA)**

This measure will:

- Expand DToA to include specified Class B and Class C drugs, as well as (as now) specified Class A drugs.
- Expand the list of DToA trigger offences.
- Allow a second sample to be taken during DToA so that forces can test for a wider range of drugs.

### **Powers of Entry to search for and recover stolen items**

This measure will create a new power for the police to enter and search premises without a warrant, where specific item/s of stolen property have been electronically tracked to the premises and they have reasonable grounds to believe the item/s are on the premises and stolen, and it is not reasonably practicable to obtain a warrant. There is also a power, exercisable once police are lawfully on the premises, to seize items which are reasonably believed to be stolen or evidence of theft offences, where it is necessary to seize in order to prevent disappearance or damage.

### **Foreign National Conditional Cautions**

This measure will expand the overall pool of people who can be offered a conditional caution with foreign offender conditions attached to include foreign nationals with limited leave in the UK. This will enable police forces in England and Wales to offer foreign national conditional

cautions to foreign nationals with extant limited leave rather than just to those with no leave as at present.

## **2. Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.**

The evidence considered in considering the duty include crime statistics, national statistics, offender profile statistics and available research.

The Department has particularly considered the following:

### **Police Accountability Reform**

In considering the impact of the proposed changes to be included in the Bill in relation to the threshold for IOPC/ police referrals of officers to the CPS; allowing the IOPC to send cases to the CPS, where there is sufficient evidence, prior to the completion of their final investigation report; and the creation of a statutory underpinning for the IOPC's existing victims' right of review, we have considered the following sources of information:

- IOPC police complaints data (experimental statistics)<sup>2</sup>
- IOPC public perceptions tracker summary report, 2022/23<sup>3</sup>
- Police workforce in England and Wales statistics, as of 31 March 2024<sup>4</sup>
- Police use of force statistics, 2023/24<sup>5</sup>
- Baroness Casey's independent review into the standards of behaviour and internal culture of the Metropolitan Police Service<sup>6</sup>

Published data shows that most complaints are made against the police by males aged between 30 and 49. Half of all complaints were made by men, and, of those who declared their race, 55% of complainants were white. Police use of force statistics show that use of force is used more against young people (aged 18-34), against men, and proportionately more against people from a Black ethnic background than against other groups. Police workforce statistics show, of the forces in England and Wales (including the British Transport Police) over half (55%) of the paid police workforce (including officers, staff, designated officers and police community support officers) are male, and over half of the police workforce is under 40 years old.

### **Police Appeal Tribunals**

#### **PUBLIC CONFIDENCE IN POLICING**

#### **Office for National Statistics (ONS) Crime Survey for England and Wales (CSEW) concerning public confidence in policing (2023)<sup>7</sup>**

- CSEW data for overall confidence in local police has been declining since 2018/19.
- Overall confidence in the police for 'all people' fell from 68% in 2022/23 to 65% in 2023/24.

---

<sup>2</sup> [Police complaints Statistics for England and Wales 2022/23: Police complaints statistics for England and Wales report - 2022/23 | Independent Office for Police Conduct \(IOPC\)](#).

<sup>3</sup> [Public perceptions tracker summary report - 2022/23 | Independent Office for Police Conduct \(IOPC\)](#)

<sup>4</sup> [NULL Police workforce, England and Wales: 31 March 2024 - GOV.UK](#)

<sup>5</sup> [Police use of force statistics, April 2023 to March 2024 - GOV.UK](#)

<sup>6</sup> [BARONESS CASEY REVIEW Final Report \(met.police.uk\)](#)

<sup>7</sup> [Crime in England and Wales: Annual supplementary tables - Office for National Statistics \(ons.gov.uk\)](#)

- In 2023/24, 64% of women agreed they had confidence in the police, a statistically significant reduction of three percentage points since 2022/23 (67%). In 2023/24 66% of men agreed they had confidence in the police, a statistically significant reduction of two percentage points since 2022/23 (68%).
- Respondents from Asian/Asian British ethnic backgrounds have the highest confidence in the police, 67% in 2023/24, but this group had the largest statistically significant decline from 73% in 2022/23. There was also a statistically significant decrease for respondents from White ethnic backgrounds, from 68% in 2022/23 to 65% in 2023/24. No other groups showed significant changes. Those from Mixed/Multiple ethnic backgrounds have the lowest rating for confidence at 57% for 2023/24, the same as 2022/23. The equivalent rating from respondents from a Black/African/Caribbean/Black British ethnic background was 58% in 2023/24.
- CSEW data for 2023/24 showed that respondents from all age groups have reduced confidence in local police. Respondents aged 75+ had the highest confidence of all age groups but had the largest decline from 73% in 2022/23 to 69% 2023/24, which was also statistically significant. In 2023/24, the ratings for other age groups ranged from 62% (55-64 year olds), to 64% (for 45-54 and 65-74 year olds) and 66% (for age groups 16-24, 25-34 and 35-44 year olds).
- Ensuring that the policing dismissals process is fair, transparent and effective – thus supporting an effective police culture may support public confidence in the police. Though it is important to note that confidence in the police can be impacted by numerous points depending on the individual, such as effectiveness of policing, local police operational priorities or if an individual feels the police treat them fairly.

#### House of Lords Library: Police standards and culture: Restoring public trust<sup>8</sup>

- This report noted the Independent Office for Police Conduct tracking for public's perceptions towards it as an organisation and about the police complaints system.<sup>9</sup> Some of the findings found 'confidence in the police's ability to deal with complaints had decreased' and 'a perception of racism and sexism within the police has contributed to increased negative sentiment towards the police.'

#### IMPACT OF INTERNAL POLICING PROCEDURAL AND CULTURAL ISSUES

##### Independent Office for Police Conduct (IOPC) referrals data<sup>10</sup>

- In October 2021, the IOPC reported that over the past three years the number of people facing disciplinary proceedings as a result of its investigations into alleged abuse of position for a sexual purpose (APSP) had risen sharply. From 2018 to 2021, 66 officers and police staff faced disciplinary proceedings, 42 of these were from the last year, making it the single largest form of police corruption that the IOPC deals with and accounting for 60% of its corruption investigations.

##### NPCC VAWG performance and insights report<sup>11</sup>

- In March 2023, the National Police Chiefs' Council (NPCC) published data on police-perpetrated VAWG complaints and conduct cases recorded between October 2021 to March 2022.
- Of VAWG-related cases during this period, 45% were investigated as complaints and 55% as conduct matters.

<sup>8</sup> [Police standards and culture: Restoring public trust - House of Lords Library \(parliament.uk\)](#)

<sup>9</sup> [Public confidence and engagement, Independent Office for Police Conduct \(IOPC\)](#)

<sup>10</sup> [There must be nowhere to hide for police who abuse their position for a sexual purpose, IOPC](#)

<sup>11</sup> [First violence against women and girls benchmark published \(npcc.police.uk\)](#)

- These cases recorded allegations against 1,539 police officer and staff, representing 0.7% of the workforce as of 31 March 2022.

HMICFRS An inspection of vetting, misconduct and misogyny in the police service (November 2022)<sup>12</sup>

- The report found that whilst policing culture has improved in recent years, there still persists a culture of misogyny, sexism and predatory behaviour towards members of the public and female police officers and staff.

IOPC Operation Hotton Learning report (February 2022)<sup>13</sup>

- A series of nine linked investigations concerning serving police officers within the Metropolitan Police Service (MPS) found evidence of racial discrimination, misogyny, harassment and bullying involving officers predominantly based at Charing Cross police station.

IOPC Police Complaints Statistics for England and Wales (2021/22)<sup>14</sup>

- Since 2020, a police complaint is defined as an expression of dissatisfaction by a member of the public with the service they have received from a police force. Complaints against the police are logged and some are formally recorded and handled in accordance with Schedule 3 to the Police Reform Act 2002.
- In 2022/23, 3% of the total complaint allegations logged (134,909) related to discriminatory behaviours (4,062). Of these 4,062 discriminatory behaviours, 56% (2,266) related to race, 17% (680) related to disability and 13% (513) related to sex.

Police workforce, England and Wales: 31 March 2024<sup>15</sup>

- As of 31 March 2024, in England and Wales there were:
  - 52,331 female officers (FTE), accounting for 35.4% of officers; the highest number and proportion of female officers since comparable records began.
  - 12,133 FTE ethnic minority (excluding White minority) officers, representing 8.4% of those who stated their ethnicity; this is the highest number and proportion of ethnic minority officers since comparable records began.
  - As of 31 March 2024, of the police officers in England and Wales who stated their age, the majority (45.4%) were aged between 26 and 40. This was closely followed by those aged between 41 and 55 (39.5%). A further 13.1% of police officers were aged 25 and under and 2.1% were aged 56 and over.
  - In the year ending 31 March 2024, of the 9,479 FTE police officer joiners (excluding transfers), 42.8% (4,061 FTE) identified as female and 973 FTE or 10.5% (who stated their ethnicity) identified as ethnic minorities (excluding White minorities).

Misconduct data collected by the Home Office as a part of the dismissals review

- The Home Office has collected a comprehensive data set covering allegations heard at misconduct hearings since the year ending 31 March 2016, across the 43 territorial police forces.

<sup>12</sup> [An inspection of vetting, misconduct and misogyny in the police service \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk/hmicfrs/reports-and-publications/an-inspection-of-vetting-misconduct-and-misogyny-in-the-police-service/)

<sup>13</sup> [Operation Hotton Learning report - January 2022.pdf \(policeconduct.gov.uk\)](https://www.policeconduct.gov.uk/operation-hotton-learning-report-january-2022.pdf)

<sup>14</sup> [IOPC Police Complaints Statistics 2021/22 \(policeconduct.gov.uk\)](https://www.policeconduct.gov.uk/iopc-police-complaints-statistics-2021-22/)

<sup>15</sup> [Police workforce England and Wales statistics - GOV.uk \(gov.uk\)](https://www.gov.uk/government/statistics/police-workforce-england-and-wales-statistics)

- Whilst there is data available on number of appeals made to the PAT and their outcome, it is difficult to comment on trends associated with the protected characteristics of those subject to appeals, given the small numbers. More generally, data shows that the number of appeals received has generally been on a downwards trend. In the year ending 31 March 2016 there were 70 appeals finalised in England and Wales, and with the exception of the year ending 31 March 2021, this number has either reduced or remained stable each year. In the year ending 31 March 2022, 25 appeals were finalised.
- The overall data set for the review includes information on some protected characteristics of officers subject to an allegation and the subsequent outcome received at the hearing.
- Data is based on the self-reported protected characteristics of officers, as recorded on force HR systems. Data is available for the sex, ethnicity and age of officers involved in allegations. Data on other protected characteristics are collected by police forces however they lack sufficient completeness rates to carry out reliable analysis:
  - By sex, the data shows that between 30 and 40 in every 10,000 male officers are referred to a hearing each year compared with 15 to 20 for female officers. By outcome, the data does not show a noticeable difference in outcome between males and females at hearings.
  - By ethnicity, the data shows that between 40 and 60 in every 10,000 ethnic minority officers are referred to a hearing each year compared with 20 to 30 for White officers. By outcome, a similar proportion of officers were found to have committed gross misconduct (86% for White officers and 87% for ethnic minority officers), however a greater proportion of ethnic minority officers were subsequently dismissed (85% of ethnic minority officers vs 81% of White officers).
  - By age, in recent years there has been an increase in younger and less experienced officers in post owing to the police uplift programme. In the year ending 31 March 2022, 41 in 10,000 officers aged 25 and under were referred to a hearing, higher than proportions seen amongst 26 to 55 year olds. A higher proportion of officers aged 25 and under or aged over 55 were dismissed where gross misconduct was found (88% for White officers and 89% for ethnic minority officers) when compared with officers aged 26 to 40 and 41 to 55 years (83 and 79% respectively).

### **Access to DVLA Records**

Statistics from the Police National Computer (PNC), which set out the use of specific data codes by users, which allow police access to driving licence information. The Department has analysed the effects that these changes will have – particularly the introduction of minimum requirements in relation to audit, training and behavioural standards in relation to the use of data.

### **Extension of DToA**

Approximately three million adults reported using drugs in the 12 months up to March 2024 and evidence shows that drug misuse is prevalent across the socioeconomic spectrum.<sup>16</sup> Public Government data and DToA data (*note that DToA data received so far includes specified Class A substances only. For the purpose of this EIA, said data is treated as an indicator only*) submitted to the Home Office in Financial Year 2022/23 was used in this EIA to look at the rate of completed tests by age, race and sex. DToA data pertaining to the remaining protected characteristics is not routinely provided to the Home Office, however, the

---

<sup>16</sup> [Drug misuse in England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

Department will consider any risks of direct or indirect discrimination, or other equalities impacts, in relation to these characteristics as the legislation is implemented.

Arrest and charge data suggests that current practices of drug possession enforcement have a disproportionate impact on certain protected characteristics (namely - race, age, and sex), in particular young black men more than other groups. This imbalance is likely to result in part from police decisions prior to arrest, for example stop and search practice, and where police enforcement operations are targeted for both drugs and other offences.

While Class B and C drugs in scope of this work will be specified in due course, this EIA presents existing data on overall illicit drug use.

Prosecution data, where available, relating to the types of offences in the expanded trigger offences list, has been considered to understand potential impacts on persons with particular characteristics. Data was not available for all characteristics or for all offences – offence groups that the majority of the expanded trigger offences fall within (violence against the person, sexual offences, robbery and possession of weapons) were considered.

### **Powers of Entry to search for and recover stolen items**

The Office for National Statistics (ONS) publishes quarterly statistical bulletins on crime against households and adults using data from police recorded crime and the Crime Survey for England and Wales (CSEW). In addition, the ONS publishes overviews of specific crime type trends, which includes demographic and nature of crime data. The Department has considered the following data from the ONS to determine the demographics most affected by the key crime types:

*It should be noted that the CSEW data has been used to provide an indication of which groups are more or less likely to be a victim of crime based on simply comparing the prevalence estimates between groups. However, caution should be applied when interpreting these data as it should be noted that these comparisons are not based on significance testing of the survey data.*

- ONS, 'Property crime tables' (Year ending March 2022)  
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/focusonpropertycrimeappendixtables>
- ONS, 'Property crime tables' (Year ending March 2021)  
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/focusonpropertycrimeappendixtables>
- ONS, 'Property crime tables' (Year ending March 2023)  
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/focusonpropertycrimeappendixtables>
- ONS, 'Nature of crime tables' (Year ending March 2023)  
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/natureofcrimepersonalandothertheft>
- Criminal Justice System statistics quarterly, MoJ, (Year ending June 2024)  
All-offence prosecutions and convictions data tool  
[Criminal Justice System statistics quarterly: June 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-june-2024)
- Police powers and procedures: Stop and search and arrests, England and Wales, year ending 31 March 2024  
[Police powers and procedures: Stop and search, arrests and mental health detentions, England and Wales, year ending 31 March 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/police-powers-and-procedures-stop-and-search-arrests-and-mental-health-detentions-england-and-wales-year-ending-31-march-2024)

Whilst the Home Office doesn't have specific data on the demographics of those handling stolen goods, our existing evidence base tells us that perpetrators of acquisitive crime offences are overwhelmingly male. Offenders tend to be younger than the general population, although this is particularly marked for theft and robbery offenders and less so for burglary. There is limited evidence of over-representation of any ethnic group aside from robbery where data suggests black individuals are over-represented. Drug use and poor education attainment are significant drivers of acquisitive crime offending, and prolific offending is extremely common. There is limited evidence of the characteristics of people who buy stolen goods. Limited research into this suggests that young males on low incomes are more likely to purchase stolen goods than older males or females. Victims of theft are more likely to buy stolen goods than non-victims. ([Casola et al. \(2009\)](#); [Patel \(2013\)](#))

Women are slightly more likely than men to be victims of an acquisitive crime, and younger people are more likely to be victims than older people. Ethnic minority individuals are more likely to experience acquisitive crime than white individuals.

The Home Office does not collect or publish data on police use of powers of entry and search, so are unable to comment on the characteristics of those subject to these powers. However, the Department will seek to explore this aspect further in order to provide further commentary on the equalities risks to individuals, particularly where powers may be used mistakenly.

### **Foreign National Conditional Cautions**

The foreign national conditional caution has been used only some 130 times since its introduction. This proposal will increase the size of the pool for future use of the caution.

Recent feedback from policing has highlighted concerns, including:

- the ability to locate the foreign national if they do not abide by the condition to leave the UK,
- very few foreign nationals elect, or would elect, to admit the offence and accept a caution as the penalty at court for offences considered for an out of court conditional caution, under the set criteria, is often in reality lesser in comparison.

### **3a. Consideration of limb 1 of the duty: Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act.**

The Department has considered potential direct and indirect impacts of measures within the Bill below. Where direct and indirect discrimination is not addressed, that is because at this time the Department has assessed that there is no direct or indirect discrimination to be considered for that measure or in relation to a particular protected characteristic; the Department will keep this under review and update as necessary.

### **Police Accountability Reform**

Having considered the evidence, the Department does not anticipate that issues will arise from the provisions to be included in the Bill regarding the interaction between the IOPC and CPS and the creation of a statutory basis for the IOPC victims' right to review, in relation to harassment, victimisation or other unlawful conduct under the Equality Act 2010.



## Age

### *Indirect Discrimination*

Evidence from the IOPC suggests that there is a disparity in age groups who complain about the police. In 2022/23, the most common age groups to complain about the police were those aged 30 to 39 years (21%, 15,996 complainants), closely followed by those aged 40 to 49 years (19%, 14,401). The people who complained least commonly were aged 17 or under (2%, 1,282). 16% (12,067) of complainants age is unknown. Compared to 2021/22<sup>17</sup>, complaints by younger people, aged 17 and under, have increased by 28% (from 1,000 or 1% of the complaints in 2021/22).

Police use of force statistics show that around half of all recorded use of force incidents involved people aged 18 to 34 years. 79% of all use of force incidents were against those between 18 and 49, although it may be the case that there is a variety of factors behind the reason why some age groups complain about the police more than other groups beyond the fact that use of force is most commonly used against those aged under 50.

The Department not aware of any evidence to suggest that these measures will have a disproportionate impact on people on the grounds of age. The police are subject to the Public Sector Equality Duty and must, therefore, have due regard to eliminating discrimination, harassment, victimisation or any other conduct that is prohibited by the Equality Act 2010 in exercising their functions. With regards their work to make the public aware of their rights in holding the police to account or the work that they undertake to resolve police complaints which it investigates, the IOPC is also subject to the Public Sector Equality Duty and must also have due regard to eliminating discrimination, harassment, victimisation or any other conduct that is prohibited by the Equality Act 2010 in exercising its functions.

Legislation to allow the IOPC to refer cases to the CPS without having completed their report and to raise the threshold for referring cases to the CPS may likely have two distinct outcomes. First, it may mean that fewer cases against police officers are referred to the CPS by either the IOPC or the police. Second, it may mean that decisions regarding IOPC investigations into police officers are closed more quickly. On the basis that, as of 31 March 2024, of the police forces in England and Wales (including the British Transport Police) over half (58.4%) of all police officers were aged 40 or under, with 13.0% of all officers aged 25 and under and it may be the case that the majority of the impact of the measures regarding the IOPC and CPS accrue to younger officers given the age balance within the police workforce.

With regards to the public, it may undermine the confidence of those who are more likely to bring complaints against the police or experience police use of force. They may consider that the changes make it more difficult to hold the police to account because the threshold for referrals of cases involving the police to the CPS will be higher than before, or that the investigations carried out by the IOPC are not as thorough as they would be were it to be required to complete its investigation report.

---

<sup>17</sup> [https://www.policeconduct.gov.uk/sites/default/files/documents/Police\\_complaints\\_Statistics\\_for\\_England\\_and\\_Wales\\_2021-22.pdf](https://www.policeconduct.gov.uk/sites/default/files/documents/Police_complaints_Statistics_for_England_and_Wales_2021-22.pdf)

The Department considers both forms of indirect discrimination to be justified on the basis that the changes pursue a legitimate aim. The aim of the changes is to address one of the issues raised during the Accountability Review. Both the police and civil society groups raised issues regarding the timeliness of outcomes following investigations against police officers. By quickening the process for making decisions regarding these cases, and no longer requiring the IOPC to complete an investigation report before sending cases to the CPS for a charging decision, police officers and complainants alike will benefit from having issues dealt with more quickly.

There are three mitigations to address any potential loss of confidence in the ability of the public to hold the police to account. First, we would expect the IOPC to apply its decision-making regarding referrals to the CPS evenly and fairly and in a way that does not discriminate against a complainant on the grounds of age as per its responsibilities under the Equalities Act 2010. Second, we would expect that the decision to create a statutory underpinning to the IOPC's victims' right to review policy will enable complainants to seek a review if they are dissatisfied by the decision of the IOPC to close its investigation into a police officer. Third, the CPS will continue to apply their full test to any subsequent charging decision.

## Race

### *Indirect Discrimination*

IOPC complaints data shows that 55% of complainants who declared their race were white (and 31% of complainants did not declare their race). Data on confidence in policing shows that Black people are more likely to feel negatively towards the police (34% vs 26% overall). 80% of complaints were made against police officers; 20% against police powers, policies or procedures.

Police use of force statistics show that use of force tactics involved people from a black ethnic group at a rate 3.2 times higher than those from a white ethnic group in police force areas in England and Wales, excluding the Metropolitan Police. The rate for those from an Asian or mixed ethnic group was lower than the rate for white individuals and the rate for other ethnic groups was similar to the white group.

In the Metropolitan Police force area, use of force tactics involved people from a black ethnic group at a rate 3.7 times higher than those from a white ethnic group. The rate for those from an Asian or mixed ethnic group was lower than those from a white ethnic group and the rate for other ethnic groups was similar to the white group.

During the accountability review, civil society groups representing those who died or were injured by the police emphasised the relevance of race and ethnicity and the need to ensure any changes to system did not diminish the systems for holding police to account.

It is possible that the changes to raise the threshold for IOPC or police referrals to the CPS and to allow the IOPC to send cases to the CPS where there is sufficient evidence, prior to the completion of its final investigation indirectly discriminates on the grounds of race. In particular, the changes may undermine the confidence of those against whom the police are more likely to use force. The Department knows that people from a Black ethnic background feel more negatively towards the police than those from a white background and the

changes may widen that gap if people from a Black ethnic background feel less able to hold the police to account.

The Department considers this indirect discrimination to be justifiable on the basis that the changes pursue a legitimate aim. The aim of the changes is to address one of the issues raised during the Accountability Review. Both the police and civil society groups raised issues regarding the timeliness of outcomes following investigations against police officers. By quickening the process for making decisions regarding these cases, and no longer requiring the IOPC to complete an investigation report before sending cases to the CPS for a charging decision, complainants will benefit from having issues dealt with more quickly.

There are three mitigations to address any potential loss of confidence in the ability of the public to hold the police to account. First, we would expect the IOPC to apply its decision-making regarding referrals to the CPS evenly and fairly and in a way that does not discriminate against a complainant on the grounds of age as per its responsibilities under the Equalities Act 2010. Second, we would expect that the decision to create a statutory underpinning to the IOPC's victims' right to review policy will enable complainants to seek a review in the event that they are dissatisfied by the decision of the IOPC to close its investigation into a police officer. Third, the CPS will continue to apply their full test to any subsequent charging decision.

## Sex

### *Indirect Discrimination*

In 2022/23, almost 75,000 people complained about the police. Of those who did, and declared their gender, 62% were male. Of those against whom force was used by the police, 79% involved males, with males experiencing a higher proportion of police use of less lethal weapons (88%) and firearms tactics (90%) compared with other tactics. It is possible, therefore, that the changes to raise the threshold for IOPC or police referrals to the CPS and to allow the IOPC to send cases to the CPS where there is sufficient evidence, prior to the completion of its final investigation indirectly discriminates on the grounds of sex.

The Department considers this indirect discrimination to be justifiable on the basis that the changes pursue a legitimate aim. The aim of the changes is to address one of the issues raised during the Accountability Review. Both the police and civil society groups raised issues regarding the timeliness of outcomes following investigations against police officers. By quickening the process for making decisions regarding these cases, and no longer requiring the IOPC to complete an investigation report before sending cases to the CPS for a charging decision, complainants will benefit from having issues dealt with more quickly.

There are three mitigations to address any potential loss of confidence in the ability of the public to hold the police to account. First, we would expect the IOPC to apply its decision-making regarding referrals to the CPS evenly and fairly and in a way that does not discriminate against a complainant on the grounds of age as per its responsibilities under the Equalities Act 2010. Second, we would expect that the decision to create a statutory underpinning to the IOPC's victims' right to review policy will enable complainants to seek a review in the event that they are dissatisfied by the decision of the IOPC to close its investigation into a police officer. Third, the CPS will continue to apply their full test to any subsequent charging decision.

With regards the police workforce, since men make up the largest proportion of the police workforce, it is likely that the changes will indirectly discriminate in favour of men, as younger

age groups within the workforce may accrue a larger proportion of the overall benefits of the changes. Any indirect discrimination in this regard is justified on the basis that the changes pursue a legitimate aim. During the Accountability Review, the police highlighted the timeliness of investigations as one of the key issues the Review needed to address. By quickening the process for making decisions regarding these cases, and no longer requiring the IOPC to complete an investigation report before sending cases to the CPS for a charging decision, the Government will address one of the key issues raised by the police.

In addition, since the changes will apply to the entire police workforce and the police and IOPC are both subject to the Public Sector Equality Duty and must have due regard to eliminating discrimination, harassment, victimisation or any other conduct that is prohibited by the Equality Act 2010. The Department would expect the police to act in accordance with its duties in relation to its practices regarding use of force; and for the IOPC to act in accordance with its duties regarding its decisions to refer cases to the CPS regarding charges of criminality to be brought against police officers.

## **Police Appeal Tribunals**

### Age

#### *Indirect Discrimination*

Given that the data in section 2 shows that younger, or less experienced police officers are more likely to face misconduct hearings, it is possible that the changes to appeal routes for chief officers could result in indirect discrimination on the grounds of age, given the earlier disproportionality within the misconduct system, which may follow through to the appeals system. The Department considers this to be objectively justified as a proportionate means of achieving a legitimate aim, because it is in the public interest for chief officers, local policing bodies and the IOPC to have the means to challenge decisions made by misconduct panels, in the circumstances set out.

### Sex

#### *Indirect Discrimination*

Data collected for the dismissals review suggests that whilst male officers are more likely to be referred to hearings (0.3% to 0.4% of all male officers compared to 0.15% to 0.2% of all female officers), data does not show a noticeable difference in outcomes between males and females post-hearing, with the same percentage being dismissed (65%) since the year ending March 2016. On the one hand therefore, there is no evidence that male officers will be disproportionately affected in terms of outcomes of appeals. Though, given that they are more likely to be originally referred to misconduct hearings, it could be the case that male officers' cases are disproportionately subject to appeal. The Department considers this to be objectively justified as a proportionate means of achieving a legitimate aim, because it is in the public interest for chief officers, local policing bodies and the IOPC to have the means to challenge decisions made by misconduct panels, in the circumstances set out.

## **Access to DVLA records**

This measure seeks to provide *de jure* access to organisations and individuals which already have *de facto* access to the DVLA data set, whilst adding a select number of additional organisations and individuals to use the data for law enforcement purposes.

The Department does not consider that any direct or indirect discrimination against persons with protected characteristics will occur because of this measure. Any secondary legislation specifying additional purposes that DVLA data may be used for will be subject to full PSED consideration.

## **Extension of Drug Testing on Arrest**

### Age

Drug testing in police detention requires different conditions be met in relation to individuals aged under and over 18. Drug testing on arrest can take place if the individual is aged 18 and over, and the conditions set out in legislation are met. Drug testing after charge can take place if the individual is aged 14 and over, and the conditions set out in legislation are met. Furthermore, under the Drugs Act 2005, a person who has not attained the age of 18 cannot currently be referred for an initial or follow-up assessment.

There are additional processes in place for those under the age of 18 who are drug tested, including the 'on charge' requirement and the presence of an appropriate adult. These additional conditions aim to safeguard the wellbeing of children and young people. Children are afforded additional protections in domestic and international law, including the UN Convention on the Rights of the Child. Similar safeguards and additional conditions apply to other police powers in relation to children, for example, the requirement for custody officers to identify an appropriate adult responsible for the welfare of individuals under 18 years of age in police custody. As such, the Department considers this difference in treatment is objectively justified, as this is to ensure appropriate safeguards are in place to protect the wellbeing of children (and so is a proportionate means of achieving the legitimate aim of protecting children).

The expansion of drug testing in police detention (including the ability to take a second sample) will apply to both the on arrest and on charge conditions, and the existing safeguards for under 18s will remain. The expansion will not discriminate on the basis of age for the reasons outlined above. Further, it is a discretionary power, available in respect of persons aged over 14 or 18 (as outlined above), which the police will be expected to apply in accordance with the statutory conditions and safeguards and their duties under the Equality Act 2010.

### *Indirect Discrimination*

There is a risk of disadvantage on the basis of age, as young people are more likely to be stopped and searched and are more likely to have used drugs, when compared to other age groups. However, DTtoA data reported to the Home Office (*note that DTtoA data received from forces so far pertains to specific Class A substances only*) indicates that the age group 30-39 is slightly more likely to be drug tested than other age groups. The Department expects this to be the case when expansion of the list of trigger offences and expansion to specified Class B and C substances takes place as well.

CSEW data shows that drug use is higher among 16–24-year-olds than the general population (16–59-year-olds). In the year ending March 2024, 16.5% of 16–24-year-olds had taken a drug in the last year compared to 8.8% of 16–59-year-olds.<sup>18</sup>

---

<sup>18</sup> [Drug misuse in England and Wales - Office for National Statistics](#)

About two-thirds (63%) of all stop and searches of persons in the year ending March 2023 were on people aged between 10 and 29 years old (331,159 out of 509,953 searches)<sup>19</sup>. The majority (83%) of all arrestees in the year ending March 2023 were aged 21 and above, a similar proportion to last year (84%); in comparison, 76% of the general population are aged 21 and above<sup>20</sup>. (Data on arrests by age are grouped into five categories: 'Under 10', 'Aged 10 to 17', 'Aged 18 to 20', 'Aged 21 and over'.)

DToA data reported to the Home Office between July 2023 and June 2024 shows that, where age group data was available, the largest proportion of tests (35%) were for those aged 30-39, 22% were for those aged 40-49, 20% were for those aged 18-24, 14% were for those 25-29, and 9% were for those aged 50+.

Prosecutions outcome data on offence groups related to the expanded trigger offences list shows that those aged 15-19 and 30-39 make up 22% and 24% of prosecutions<sup>21</sup>, despite making up 6% and 14% of the population respectively.<sup>22</sup> They may therefore be more likely than other age groups to be arrested (or charged) and drug tested for one of the expanded trigger offences.

The Department considers any potential disadvantage to particular age groups is objectively justified, as the aim of the overarching drug testing in police detention powers is to refer more individuals to drug treatment and support services to help address their drug use and drive down drug related criminality. The power is only available where an individual is arrested for or charged with a criminal offence and is based upon the fact that the offence type is assessed as drug related (or, in the individual case, it is assessed their offence was drug related).

There are offences associated with drug testing in police detention, namely refusal to give a sample for the drug test without good cause and non-attendance/failure to stay for the duration at/of the initial and/or follow-up assessment, and as such there is a potential negative impact on age groups that are more likely to be drug tested being disproportionately prosecuted for these offences. Under the Drugs Act 2005, a person who has not attained the age of 18 cannot currently be referred for an initial or follow-up assessment. The Department will continue to consider this risk and will continue to collect and monitor data from police forces via the Home Office-funded DToA expansion programme.

## Gender Reassignment

### *Indirect Discrimination*

There is evidence to suggest that drug testing in police detention may have a risk of disadvantage on the basis of gender reassignment. The CSEW for year to March 2024 reports that 8.9% of people with a gender identity the same as sex registered at birth had taken drugs in the last year, compared to 21% of people with a gender identity different from sex registered at birth<sup>23</sup> and so there is a possibility that individuals who have had gender reassignment may be more likely to be asked to undergo drug testing when compared those who identify with their sex registered at birth. DToA programme data does not record the gender reassignment status of individuals who undergo testing. However, if evidence is brought to the attention of the Home Office relevant to this, the Department will consider the findings and appropriate mitigations or steps to address this.

---

<sup>19</sup> [Police powers and procedures: Stop and search and arrests, England and Wales, year ending 31 March 2023 \(second edition\) - GOV.UK](#)

<sup>20</sup> [Population and household estimates, England and Wales - Office for National Statistics \(ons.gov.uk\)](#)

<sup>21</sup> [Criminal Justice System statistics quarterly: June 2024 - GOV.UK](#)

<sup>22</sup> [Population and household estimates, England and Wales - Office for National Statistics \(ons.gov.uk\)](#)

<sup>23</sup> [Drug misuse in England and Wales - Appendix table - Office for National Statistics \(ons.gov.uk\)](#)

Prosecutions outcome data on offence groups related to the expanded trigger offences did not have an available breakdown based on the characteristic of gender reassignment.

Additionally, the Department considers that, should persons be placed at a disadvantage on the grounds of gender reassignment, this will be objectively justified, as the aim of the overarching drug testing in police detention powers is to refer more individuals to drug treatment and support services to help address their drug use and drive down drug related criminality. The power is only available where a person has been arrested or charged for a criminal offence.

## Race

### *Indirect Discrimination*

There is a risk of disadvantage to individuals from an ethnic minority background due to them being disproportionately associated with other policing activities leading to arrest.

Stop and search has been shown to disproportionately impact people from black ethnicities more than other groups, often in relation to suspected drug offences. In the year to March 2023, there were 24.5 stop and searches for every 1000 black people, and 5.9 for every 1000 white people, and 8.5 for every 1000 Asian people.<sup>24</sup>

The CSEW for year ending March 2024 reports that 10% of white, 5.5% of Black/African/Caribbean/Black British, 7.4% of other and 3% of Asian/Asian British adults reported using illicit drugs in the last year<sup>25</sup>.

Although specified Class B and C drugs are not currently tested via DToA, the data submitted so far on Class A drugs provided insight into the current ethnic minority split of tests issued so far. DToA data submitted to the Home Office between July 2023 and June 2024 shows that, where race data was provided, the majority of the tests (79%) were for those from a white background, with 9% of tests being for those from a black/ black British background, 7% for those from Asian/ Asian British background, 2% for those from a mixed ethnic group, and 2% for those from another group. These proportions may reflect the relative proportions of these race groups in the general population, or the population of those arrested for crime. In the year ending March 2024, the arrest rate for black people was 2.2 times higher than for white people – there were 20.4 arrests for every 1,000 black people, and 9.4 for every 1,000 white people.<sup>26</sup>

In 2020, of defendants prosecuted, 76% were White, 12% were Black, 7% were Asian, 4% were of Mixed ethnicity groups, and 2% were Chinese or Other ethnic groups.<sup>27</sup>

Prosecutions outcome data on offence groups related to the expanded trigger offences shows that, compared to other ethnic groups, Black people make up a higher proportion of prosecutions at 13%<sup>28</sup> (compared to being only 4% of the overall population).<sup>29</sup> They may therefore be more likely than people of other races to be arrested and drug tested for one of the expanded trigger offences.

The Department anticipate that the risk of disadvantage will continue into the expansion of trigger offences and inclusion of Class B and C substances in relation to drug testing in police detention, considering the evidence of disproportionality in wider policing activity and evidence

---

<sup>24</sup> [Stop and search - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](https://www.ethnicity-facts-figures.service.gov.uk/)

<sup>25</sup> [Drug misuse in England and Wales - Appendix table - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/people-population/ethnicity-and-religion-in-england-and-wales)

<sup>26</sup> [Arrests - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](https://www.ethnicity-facts-figures.service.gov.uk/)

<sup>27</sup> [Ethnicity and the Criminal Justice System, 2020 - GOV.UK](https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2020)

<sup>28</sup> [Criminal Justice System statistics quarterly: June 2024 - GOV.UK](https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-june-2024)

<sup>29</sup> [Population of England and Wales - GOV.UK Ethnicity Facts and Figures](https://www.ethnicity-facts-figures.service.gov.uk/)

outlined above of greater drug use among individuals from certain ethnic backgrounds. However, the available DToA data does not indicate that drug testing in police detention is disproportionately impacting individuals from an ethnic minority background nor disproportionately impacting individuals from a white background, as the testing data by ethnicity is broadly in agreement with population data and arrest data. Should any disadvantage be caused to persons on the ground of race, the Department expects it to be objectively justified, as the aim of the overarching drug testing in police detention powers is to refer more individuals to drug treatment and support services to help address their drug use and drive down drug related criminality. The power is only available in respect of persons arrested or charged for a criminal offence.

There are offences associated with drug testing in police detention, namely refusal to give a sample for the drug test without good cause and non-attendance/failure to stay for the duration at/of the initial and/or follow-up assessment, and as such there is a potential negative impact on individuals from ethnic minority backgrounds being prosecuted for these offences. As above, the Department would expect any such disadvantage (if arising) to be objectively justified; prosecution will arise due to their failure to attend the drug assessment, aimed at reducing drug use and driving down drug-related criminality. The Department will continue to consider this risk and will continue to collect and monitor data from police forces via the Home Office-funded DToA expansion programme.

## Sex

### *Indirect Discrimination*

Drug testing in police detention may have risk of disadvantage on the basis of sex. Evidence shows greater drug use among men than women. The CSEW for year to June 2024 reported that 10.7% of men had taken a drug in the last year, compared to 7% of women<sup>30</sup>.

DToA data submitted to the Home Office in the year to June 2024 shows 84% of all completed DToA tests were for men compared with 16% of tests being for women. This is reflective of pre-arrest disparities, for example in the year to March 2023, 85% (excluding unknowns) of people arrested were men and 88% of people arrested for drug offences in the year to March 2023 were men.<sup>31</sup> The majority (89%) of stop and search searches were of males and 11% of females – figures were the same for searches due to drug related reasons; there were a small number of searches of people of 'other' sex (169 out of 522,664 searches of people where the sex was recorded).

The Department anticipates that the risk of disparities in drug testing rates in relation to sex will continue into the inclusion of Class B and C substances, the taking of an additional sample and the expansion of trigger offences in relation to drug testing in police detention, considering the pre-arrest disparities in stop and search and arrest rates of men compared to women. Internal DToA data reported to the Home Office indicates that the DToA activity is broadly in-line with the differing arrest rates and drug misuse rates for men and women.

Prosecutions outcome data on offence groups related to the expanded trigger offences shows that males make up 90% of prosecutions<sup>32</sup> but are 49% of the population. They may therefore be more likely to be arrested and drug tested for one of the expanded trigger offences.<sup>33</sup>

---

<sup>30</sup> [Drug misuse in England and Wales - Appendix table - Office for National Statistics \(ons.gov.uk\)](#)

<sup>31</sup> [Police powers and procedure: Stop and search arrests, England and Wales, year ending 31 March 2023 \(second edition\) - GOV.UK](#)

<sup>32</sup> [Criminal Justice System statistics quarterly: June 2024 - GOV.UK](#)

<sup>33</sup> [Population and household estimates, England and Wales - Office for National Statistics](#)



The Department considers that, should this result in men being placed at a disadvantage, this will be objectively justified, as the aim of the overarching drug testing in police detention powers drugs is to refer more individuals to drug treatment and support services to help address their drug use and to drive down drug related criminality. The power is only available where a person has been arrested or charged for a criminal offence.

There are offences associated with drug testing in police detention, namely refusal to give a sample for the drug test without good cause and non-attendance/failure to stay for the duration at/of the initial and/or follow-up assessment, and as such there is a potential negative impact on men being prosecuted for these offences. The Department is not aware that this is taking place, and the Department will continue to collect and monitor data from police forces via the Home Office-funded DToA expansion programme. Additionally, the Department would expect any such disadvantage (if arising) to be objectively justified; prosecution will arise due to their failure to attend the drug assessment, aimed at reducing drug use and driving down drug-related criminality.

## Sexual Orientation

### *Indirect Discrimination*

There is evidence to suggest that drug testing in police detention may have a risk of disadvantage on the basis of sexual orientation. The CSEW for year to March 2024 reports that 8.1% of heterosexual individuals reported drug use in the past year, compared to 15.8% of gay/lesbian individuals and 25% of bisexual individuals<sup>34</sup>, and so there is a possibility that gay/lesbian or bisexual individuals may be more likely to be asked to undergo drug testing when compared with heterosexual individuals. DToA programme data does not record the sexual orientation of individuals who undergo testing. However, if evidence is brought to the attention of the Home Office relevant to this, the Department will consider the findings and appropriate mitigations or steps to address this.

Prosecutions outcome data on offence groups related to the expanded trigger offences did not have an available breakdown based on sexual orientation.

The Department considers that, should this result in persons being placed at a disadvantage on the grounds of sexual orientation, this will be objectively justified, as the aim of the overarching drug testing in police detention powers is to refer more individuals to drug treatment and support services to help address their drug use and drive down drug-related criminality. The power is only available where a person has been arrested or charged for a criminal offence.

## **Powers of Entry to search for and recover stolen items**

### Age

#### *Indirect Discrimination*

Victims:

- Data sources indicate that young people (16-34) are more likely to be victims of some types of acquisitive crime. In general, an adult's likelihood of falling victim to domestic burglary, vehicle-related thefts and theft from the person decreases with age. For example, 0.3% of those aged 16-24 and 0.2% of those aged 25-34 were estimated to be victims of robbery in the year to March 2023, compared with 0.04%

---

<sup>34</sup> [Drug misuse in England and Wales - Appendix table - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)

of those aged 65-74. In the year to March 2023, of those aged 16-24, 7.9% were estimated to be victims of vehicle crime, compared with 1.4% of those aged 75+.

- Adults aged 16-24 are more likely to be victims of domestic burglary (3.4%) and are also most likely to be victims of theft from the person (1.2%).
- More specifically, mobile phone owners aged 14-17 were most likely to experience theft (1.0%). The risk of mobile phone owners experiencing theft decreases with age after this with 0.4% of adults aged 22-24 and 0.2% of those aged over 75 experiencing theft.

#### Offenders:

- The CSEW estimates that 42% of offenders of personal theft incidents were aged between 16 and 24 and 40% aged between 25 to 39.<sup>4</sup>
- Adults aged between 30 to 39 (33%) are the most likely group to have a conviction against the handling of stolen goods, where there are known ages (year ending December 22).<sup>5</sup>

The Department would assume the new power would be more likely to affect younger groups as both victims and perpetrators of acquisitive crime. Where younger people are more likely to be affected as victims, it could potentially assist in eliminating indirect discrimination against this group. Where individuals might be indirectly disadvantaged as a result of this policy on the grounds of their age, the Department considers it can be objectively justified as a proportionate means of achieving the legitimate aims of preventing and investigating crime.

### Marriage and Civil Partnership

#### *Indirect Discrimination*

There is a lack of data for this characteristic in relation to vehicle theft and domestic burglary. However, in the year ending March 2023, CSEW data suggests that 0.3% of victims of theft from the person were married or civil partnered, compared with 0.8% of victims who were single, and 0.6% of victims of other theft of personal property were married or civil partnered compared to 1.2% of victims who were single.

More specifically, single mobile phone owners were more likely to be victims of theft compared to those who are married (0.5% compared to 0.3%).

Taking this data into account, it is possible that the legislation will be less beneficial for married individuals. However, this is not expected to be indirectly discriminatory. The Department does not have evidence to suggest that people with this protected characteristic are more or less likely to commit acquisitive crime.

### Race

#### *Indirect Discrimination*

#### Victims:

- CSEW indicates that households whose lead respondent identifies as Mixed ethnicity are more likely to be victims of burglary. In the year to March 2023, 2.3% and 1.9% of mixed and black households were estimated to be victims of burglary, compared to 1.3% of white households. For theft from the person, black (0.8%) and mixed (1.0%) people were more likely to be victims compared to white people (0.5%). Furthermore, 5.2% and 5.1% of Asian and black households were estimated to be victims of vehicle related theft compared to 3.0% of white households.

#### Offenders:

- White individuals are most likely to be convicted against handling stolen goods (80%), where ethnicity is known, for the year ending December 2022. It should be noted that this assessment is based on volumes and therefore does not take into account the breakdown by ethnicity in the general population.
- The Department assumes the new power would be more likely to positively affect black and Asian groups if their stolen property was found. This could potentially assist in eliminating indirect discrimination against this group. Where individuals might be indirectly disadvantaged as a result of this policy on the grounds of their race, the Department considers it can be objectively justified as a proportionate means of achieving the legitimate aims of preventing and investigating crime.

#### Religion or Belief

##### *Indirect Discrimination*

Buddhists and Hindus are more likely to be victims of domestic burglary than other religious groups (2.0% and 1.8%), with all other religious groups being under 1.5%.

Buddhists, Christians and those who identify as having no religion are least likely to be victims of vehicle-related theft (0.9%, 2.7% and 3.4%, respectively), around 2 percentage points below other religious groups (Hindu, Muslim, Jewish and other). Individuals that are Muslim or Hindu are slightly more likely to be victims of theft from the person (1.0% and 0.9%).

This legislation will affect all religious groups but may have greater positive impacts for Muslims as they are more likely to be victims of acquisitive crime. This could potentially assist in eliminating indirect discrimination against this group.

There is no readily available evidence to suggest that people with this protected characteristic are more or less likely to commit acquisitive crime.

#### Sex

##### *Indirect Discrimination*

#### Victims:

- Women are more likely than men to be victims of theft from the person and vehicle theft. Regarding theft from the person, the CSEW 2023 indicates that 0.5% of women were victims as compared with 0.4% of males. Similarly, 23.5% of women and 3.1% of men were victims of vehicle crime.
- Women are also slightly more likely than men to experience theft of a mobile phone (0.5% and 0.3%, respectively).<sup>3</sup>

#### Offenders:

- Across some acquisitive crime types (domestic burglary, robbery, personal theft, other-household theft), men are more likely to be offenders than women. For example, in relation to personal theft, 75% of offenders are estimated to be male compared to 17% of females.
- Men are far more likely to be convicted against handling stolen goods (92%), than women (8%), where sex is known (year ending December 2022).
- Furthermore, females are more likely to experience and be affected by domestic abuse. Perpetrators of domestic abuse very often use electronic tracking as a tactic for exerting control over a victim, particularly in the context of coercive and controlling behaviour. Technology and the internet enable abuse to be perpetrated both within

the home and from a distance, undermining a victim's capacity to transition into safe and settled life. There is a risk that perpetrators could use this power to make vexatious reports to the police by claiming goods that they previously had access to are now on the victim's premises. This could harm victims who have fled their abuser, who are already at particular risk.

This legislation will likely affect both males and females. The Department assumes it would be more likely to positively affect females, who are more likely to be victims of acquisitive crime, if their stolen property was found. However, it is possible women will be disproportionately impacted as victims of domestic abuse if the power is used as a tool for harassment by abusers. The Department considers this can be objectively justified as a proportionate means of achieving the legitimate aims of preventing and investigating crime. However, the Department will keep this risk under review once the measure is in force.

As males are more likely to commit acquisitive crime, they would be more likely to be subject to police intrusion to search premises they are connected with, and/or to arrest, prosecution and conviction as a result of police exercising the new powers. However, the Department considers this can be objectively justified as a proportionate means of achieving the legitimate aims of preventing and investigating crime.

## Sexual Orientation

### *Indirect Discrimination*

The CSEW indicates that in the year ending March 2023, individuals with the "Other" sexual orientation are the most likely group to be victims of theft from the person (1.7%), with heterosexual/straight and gay/lesbian individuals both at 0.5% and bisexual individuals at 1.0%. Moreover, individuals with the "Other" sexual orientation (0.6%) were the most likely group to experience robbery, followed by bisexual individuals (0.3%).<sup>2</sup>

Taking this data into account, it is possible that the legislation will be more beneficial for bisexual and homosexual individuals. However, this is not expected to be indirectly discriminatory, as there is not enough readily available data or existing known issues on whether people with this protected characteristic are more or less likely to be affected by the legislation.

There is no readily available evidence to suggest that people with this protected characteristic are more or less likely to commit acquisitive crime.

## **Foreign National Conditional Cautions**

### Race

#### *Direct Discrimination*

Schedule 3 of the 2010 Act relates to services and public functions and sets out exemptions from the requirement not to discriminate in particular circumstances. Paragraphs 15A (age), 16 (disability), 17 (nationality or national or ethnic origins) and 18 (religion or belief) set out limited exemptions for immigration functions.

It should be noted that these exemptions are not a blank cheque to discriminate. A policy must be reasonable, and any possible discrimination justified in addition to being in compliance with the Equality Act, or its application could be challenged on public law grounds. A change to primary legislation cannot be challenged by way of an application for

judicial review. The decision of the police or CPS to administer a foreign national conditional caution can be challenged on general public law grounds. However, administering foreign national conditional cautions in this proposal would be "in pursuance of an enactment" and the general exception set out in Schedule 23 to the 2010 Act applies. The effect of those exceptions means that the police or CPS in administering a conditional caution, would not be discriminating when carrying out their service pursuant to section 29 of the 2010 Act. Moreover, the caution itself is not discriminatory on the foreign national because it is voluntary.

The existing provisions in relation to conditional cautions allow for a distinction between foreign nationals and British citizens in that only foreign nationals can be forcibly removed from the UK. However, presently this is only if the foreign national does not have a lawful basis on which to remain in the UK. Without this lawful basis, they would be liable to removal anyway. The conditional caution provisions merely allow this removal to be brought forward.

The proposed changes would allow the conditional caution provisions to be offered to foreign nationals with extant limited leave in the UK and who would not otherwise be subject to removal. The conditional caution provisions would then apply to all foreign nationals with limited leave and not just those without leave in the UK. The proposals will apply equally to all foreign nationals with the exception of Irish nationals. Because Irish nationals are exempt from deportation under the Borders Act 2007, the Department does not propose to make such nationals subject to the provisions in relation to foreign national conditional cautions.

However, this amendment would arguably result in direct discrimination against British citizens who could never be eligible for these provisions, i.e. that such citizens could not opt to be removed from the UK rather than face criminal prosecution. The Department considers this to be justified under the exemptions discussed at the start of this section, and because the public interest may be better served where the foreign national leaves the UK and agrees to not return for a period of time, rather than be prosecuted in the courts.

This extended power will provide a mechanism whereby foreign nationals who admit to criminality may agree to depart the UK rather than face a trial. The rationale is to save the expense of a trial and subsequent prison place should there be a conviction and custodial sentence. The foreign national has to agree to be removed as part of accepting the caution. They will also have to agree not to return to the UK for a specified period of time.

## Sex

### *Indirect Discrimination*

It is likely that this proposal will affect men more than women given that foreign nationals who are convicted of crimes are disproportionately men. However, this is a consequence of their decision making rather than something contained within the measure itself. Any possible indirect discrimination is considered justified as a proportionate means of achieving the legitimate aim of reducing crime and protecting the public.

### **3b. Consideration of limb 2: Advance equality of opportunity between people who share a protected characteristic and people who do not share it.**

The Department has considered potential direct and indirect impacts of measures within the Bill below. Where advancing equality of opportunity is not addressed, that is because at this time the Department has assessed that the measures will not have a positive or negative effect on advancing equality of opportunity between people who share a protected characteristic and people who do not share; the Department will keep this under review and update as necessary.

## **Police Accountability Reform**

### Age, Race, and Sex

The proposal to create a statutory underpinning for the IOPC's victims' right to review will assist in remedying any disadvantages the Department understands to be suffered by groups sharing these protected characteristics.

### Disability

In its submission to the Police Accountability Review, IOPC cited complexity as a barrier to the public making police complaints. The proposal to create a statutory underpinning for the IOPC's victims' right to review will assist in remedying any disadvantages we understand to be suffered by groups sharing the protected characteristic of disability. In particular, it may make it easier for groups sharing the protected characteristic of disability to challenge an IOPC decision, thereby promoting the equality of opportunity between people who share this protected characteristics and people who do not.

## **Police Appeal Tribunals**

### Race

As identified in the police dismissals review, evidence suggests that there is disparity within the dismissals system particularly pertaining to race, with Black and ethnic minority officers disproportionately more likely to be subject to some conduct processes.

To mitigate this, the statutory guidance which accompanies this change will make clear the need for compliance with the Equality Act, and existing safeguards such as a right of appeal will remain. Furthermore, wider work to tackle disparities in the misconduct system will seek to understand why such disparities may exist and where appropriate, put in place measures, with policing partners, to reduce them.

Lastly, there remains an expectation for each force in England and Wales to work with the policing sector to understand and where needed, tackle disparities in the misconduct system – having due regard to the Equality Act. This includes through the work already taking place with Professional Standards Departments (PSDs), including cultural awareness and unconscious bias training, enhanced workforce representation and force scrutiny boards.

## **Access to DVLA Records**

The Department does not consider that this measure will adversely impact or advance equality of opportunity between people who share a protected characteristic and people who do not share it. Any secondary legislation specifying additional purposes that DVLA data may be used for will be subject to full PSED consideration.

## **Drug Testing on Arrest**

## Age

Drug testing in police detention differentiates between children and adults and requires additional safeguards and conditions to be met for drug testing under 18s. This is to protect the welfare of children in police custody, and in line with existing police processes in relation to children. Drug testing in police detention conditions do not differentiate on the individual based on age beyond the distinction between adults and children. The proposed expansion of trigger offences and inclusion of Class B and C substances for drug testing in police detention will apply across the 'on arrest' and 'on charge' conditions.

As stated under the first limb, the disparities in arrest rates, drug use, and prosecutions data for related offence types across age groups may result in over-representation of certain age groups in drug testing activities. The available DToA data does not demonstrate that this is the case. Updates to operational guidance for the police and statutory codes of practice such as Code under the Police and Criminal Evidence Act 1984 (PACE) are being made which will seek to ensure that testing is done where necessary and proportionate in order to address drug misuse and offending behaviour. The Department will continue to monitor the data reported to the Home Office on DToA and continue engagement with forces on drug testing in police detention and will consider specific measures to help advance equality of opportunity among this group if issues are identified. The opportunity for individuals to access treatment is not impacted by a person's age and so this does not create unequal or inequitable opportunities to access treatment and support services. At a required assessment as part of DToA, the individual will meet with a drugs support worker and treatment or support options offered will take into consideration the needs of the individual.

## Gender Reassignment

As stated under the first limb, evidence shows greater drug use among those whose gender identity is different from their sex registered at birth. Updates to operational guidance for the police and PACE Codes are being made which will seek to ensure that testing is done where necessary and proportionate in order to address drug misuse and offending behaviour. The Home Office will continue to monitor the data reported to the Home Office on DToA and continue engagement with forces on drug testing in police detention and will consider specific measures to help advance equality of opportunity among this group if issues are identified. The opportunity for individuals to access treatment is not impacted by a person's sexual orientation, and so this does not create unequal or inequitable opportunities to access treatment and support services. At a required assessment as part of DToA, the individual will meet with a drugs support worker and treatment or support options offered will take into consideration the needs of the individual.

## Race

As stated under the first limb, it is possible that due to disparities associated with police enforcement activities, especially the use of stop and search, and prosecutions data for related offence types of subsequent drug testing in police detention may result in the over-representation of individuals from certain ethnic backgrounds in drug testing activities. Updates to operational guidance for the police and PACE Codes are being made which will seek to ensure that testing is done where necessary and proportionate in order to address drug misuse and offending behaviour. The Department will continue to monitor the data reported to the Home Office on DToA and continue engagement with forces on drug testing in police detention and will consider specific measures to help advance equality of opportunity among this group if issues are identified. The opportunity for individuals to access treatment is not impacted by a person's race, and so this does not create unequal or

inequitable opportunities to access treatment and support services. At a required assessment as part of DToA, the individual will meet with a drugs support worker and treatment or support options offered will take into consideration the needs of the individual.

### Sex

As stated under the first limb, evidence shows greater drug use among men than women and men are arrested at a higher rate and prosecuted for offence types related to the trigger offences at a higher rate, compared to women. The available DToA data (specified Class A substances only) demonstrates that men and women are drug tested in broadly in-line with the differing arrest rates and drug misuse rates for men and women. Updates to operational guidance for the police and PACE Codes are being made which will seek to ensure that testing is done where necessary and proportionate in order to address drug misuse and offending behaviour. The Department will continue to monitor the data reported to the Home Office on DToA and continue engagement with forces on drug testing in police detention and will consider specific measures to help advance equality of opportunity among this group if issues are identified. The opportunity for individuals to access treatment is not impacted by a person's sex, and so this does not create unequal or inequitable opportunities to access treatment and support services. At a required assessment as part of DToA, the individual will meet with a drugs support worker and treatment or support options offered will take into consideration the needs of the individual.

### Sexual Orientation

As stated under the first limb, evidence shows greater drug use among gay/lesbian and bisexual individuals when compared to heterosexual individuals. Updates to operational guidance for the police and PACE Codes are being made which will seek to ensure that testing is done where necessary and proportionate in order to address drug misuse and offending behaviour. The Department will continue to monitor the data reported to the Home Office on DToA and continue engagement with forces on drug testing in police detention and will consider specific measures to help advance equality of opportunity among this group if issues are identified. The opportunity for individuals to access treatment is not impacted by a person's sexual orientation, and so this does not create unequal or inequitable opportunities to access treatment and support services. At a required assessment as part of DToA, the individual will meet with a drugs support worker and treatment or support options offered will take into consideration the needs of the individual.

## **Powers of Entry to search for and recover stolen items**

### Age

Data suggests that younger people are more likely to be victims of acquisitive crime. As the new power is intended to allow for easier retrieval of victims' stolen goods and deter criminals from offending, it has potential to advance equality of opportunity by reducing disadvantages suffered by persons with this characteristic and taking steps to meet their needs.

### Disability

Data suggests that disabled people are more likely to be victims of acquisitive crime. As the new power is intended to allow for easier retrieval of victims' stolen goods and deter criminals from offending, the new power has potential to advance equality of opportunity by



reducing disadvantages suffered by persons with this characteristic and taking steps to meet their needs.

Documents published on the Government website include a link to request an accessible format of such document. The Department will ensure that this is done for all new documents, including any amendments to existing documents.

### Race

Data suggests that non-white groups are more likely to be victims of acquisitive crime. As the new power is intended to allow for easier retrieval of victims' stolen goods and deter criminals from offending, the new power has potential to advance equality of opportunity by reducing disadvantages suffered by persons with this characteristic and taking steps to meet their needs.

### Religion or Belief

Data suggests that Muslim people are more likely to be victims of acquisitive crime. As the new power is intended to allow for easier retrieval of victims' stolen goods and deter criminals from offending, the new power has potential to advance equality of opportunity by reducing disadvantages suffered by persons with this characteristic and taking steps to meet their needs.

### Sex

Data suggests that women are more likely to be victims of acquisitive crime. As the new power is intended to allow for easier retrieval of victims' stolen goods and deter criminals from offending, the new power has potential to advance equality of opportunity by reducing disadvantages suffered by persons with this characteristic and taking steps to meet their needs.

It is possible women will be disproportionately impacted as victims of domestic abuse if the power is used as a tool for harassment by abusers, which may hinder equality of opportunity. However, the Department has no evidence currently to suggest that will be the case, given the safeguards built into the power to protect against vexatious use. The Department will monitor this risk once the measure is in force.

### Sexual Orientation

Data suggests that bisexual and homosexual people are more likely to be victims of acquisitive crime. As the new power is intended to allow for easier retrieval of victims' stolen goods and deter criminals from offending, the new power has potential to advance equality of opportunity by reducing disadvantages suffered by persons with this characteristic and taking steps to meet their needs.

### **Foreign National Conditional Cautions**

This limb of the PSED does not apply to nationality and ethnic or national origins. This proposal differentiates foreign nationals who are offered conditional cautions from British citizens who are offered conditional cautions. As such, it does not seek to advance equality of opportunity between those with a protected characteristic and those without. British citizens cannot be deported or removed from the UK. They are therefore arguably at a disadvantage vis a vis foreign nationals who can accept a caution, and their removal from the UK, and avoid prosecution and punishment if found guilty. This approach is however

justified because of the greater public interest in the removal of the foreign national who admits the crime from the UK, i.e. the Department considers it to be more in the public interest to remove from the UK the foreign national who admits guilt than it is to pursue prosecution, punishment and then potentially subsequent removal.

In any case, this is already the position in relation to foreign nationals who have no leave to be in the UK. This amendment merely extends this to those with limited leave.

### **3c. Consideration of limb 3: Foster good relations between people who share a protected characteristic and persons who do not share it.**

#### **Police Accountability Reform**

The Department has not identified notable impacts in how the measures may impact, or be perceived to impact, relations between people who share a protected characteristic or with those who don't.

#### **Police Appeal Tribunals**

These changes are likely to further professionalise policing, uphold standards and ensure that there are effective and robust processes in place to remove police officers who should not be serving, in a more cost-effective way to the tax-payer.

These changes are expected to support improvements in public confidence in the police and, in particular, to foster good relations with those who may have lower confidence in the police, including those from ethnic minority backgrounds, women and young people.

#### **Access to DVLA Records**

The Department does not consider that this measure will adversely impact or improve relations between people who share a protected characteristic and people who do not share it. Any secondary legislation specifying additional purposes that DVLA data may be used for will be subject to full PSED consideration.

#### **Drug Testing on Arrest**

The Department does not believe there will be any negative relations fostered between individuals who share, and those who do not share, protected characteristics as part of the proposed expansion of trigger offences, inclusion of Class B and C substances for drug testing in police detention or taking of a second sample. Drug testing in police detention is not a new activity, and the Home Office funded expansion programme has been running since December 2021. Police forces have established processes in place to engage with individuals and signpost into appropriate interventions.

Expanding the list of trigger offences and including Class B and C substances for drug testing in police detention may be seen negatively by those who use drugs or who are more likely to be stopped and searched for illegal drug use, namely men and those from ethnic minority backgrounds. However, the resulting increase in referrals into treatment following a positive drug test may help foster good relations through a reduction in drug misuse-related harms.

As the policy does not target a particular group of individuals with a protected characteristic under the Equality Act, it will not result in some people receiving a particular benefit instead of others. Therefore, it will not impact relations between groups with protected characteristics and the rest of the population negatively.

### **Powers of Entry to search for and recover stolen items**

These measures, if used proportionately and accurately, could potentially benefit victims of crime by more swiftly retrieving their stolen property. Powers of entry are inherently intrusive in nature and there is a risk their use may have short-term negative impacts on relations between the public and the police, particularly if mistakes are made. This will include people from variety of protected characteristics. However, the Department believes the safeguards built into the measure will mitigate this and in the long run the proposed legislation will assist in fostering good relations by improving the public's confidence in the police to tackle crime.

### **Foreign National Conditional Cautions**

The proposal will not have applicability to this limb as it will not directly foster good relations between persons with a protected characteristic. However, it is justified in order to speed up the removal from the UK of foreign nationals who have admitted to criminality without the public purse incurring the expense of a trial and imprisonment and will increase protection of the public by removing foreign offenders from the UK.

## **4. In light of the overall policy objective, are there any ways to avoid or mitigate any of the negative impacts that you have identified above?**

### **Police Accountability Reforms**

As set out above, as the Department develops the proposals in greater detail, the Department will work with the police and other stakeholder groups, civil society groups and families directly impacted by police use of force. Information gathered during that engagement will be regularly reviewed and, where necessary, inform our understanding of the impact of the proposals.

### **Police Appeal Tribunals**

Whilst there is the potential for indirect impact on some grounds, the overall intent of the policy is designed to uphold standards in police, including in cases involving discriminatory behaviour by police officers themselves. These changes will enable chief officers, local policing bodies and the IOPC to appeal in cases involving such behaviour, and in which the officer concerned was not dismissed. This is therefore expected to support broader improvements in public confidence.

The Home Office will continue to monitor data on police misconduct as part of the police misconduct statistical series, which is collected and published annually and now includes data on protected characteristics.

Furthermore, there is wider work to tackle disparities in the misconduct system by policing partners, as well as work planned which seeks to understand why such disparities may exist and where appropriate, put in place measures, with policing partners, to reduce them.

## **Drug Testing on Arrest**

As outlined above, possible negative impacts on the basis of age, race, sex, are through placing such persons at a disadvantage (as a result of them more frequently being drug tested) through being disproportionately associated with other policing activities leading to arrest, or through higher rates of drug use, or higher rates of prosecution for offence types related to the proposed trigger offences. Updates to operational guidance for the police and PACE Codes are being made which will seek to ensure that testing is done where necessary and proportionate in order to address drug misuse and offending behaviour.

The Department will continue to monitor the data reported to the Home Office on DToA and continue engagement with forces on drug testing in police detention so that the Department can consider further specific measures to help advance equality of opportunity among these groups if issues are identified.

However, the aim of the overarching drug testing in police detention powers is to refer more individuals to drug treatment and support services to help address their drug use and drive down drug related criminality, potentially leading to positive impact. Therefore, the Department considers that any potential disadvantage is objectively justified.

## **Powers of Entry to search for and recover stolen items**

The use of powers of entry, search and seizure are attached to a number of legislative safeguards, including statutory codes of practice such as Code B of the Police and Criminal Evidence Act 1984 (PACE).

Further safeguards will be included with the new power such as:

- Authorisation of use of entry/ search power from an officer of inspector rank or above. Authorisation will be in limited, restricted circumstances as the threshold requires police to have reasonable grounds to believe specified stolen goods are on the premises; and that it is not reasonably practicable to obtain a warrant without frustrating or seriously prejudicing the entry/ search purpose.
- Search will only be permitted as far as is reasonably required to seek the stolen property.
- Seizure will be restricted to items police reasonably believe are stolen, or evidence of a theft offence, where necessary to prevent disappearance or damage.
- Use of the power will be restricted to scenarios where the stolen item can be tracked to a particular premises using GPS or other location tracking data.
- Recording the use of the new power appropriately.

The Department would expect the police to be able to explain and justify to the public any use of the new power, and to monitor its use for any disparities.

## **5. Review Date**

The proposals considered in this document will be reviewed throughout the legislative process and will be subject to the normal post-legislative review three to five years after Royal Assent.

## **6. Declaration**

I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that due regard has been made to

the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

**SRO Sign Off:**

**Police Accountability Arrangements:** Andy Johnson, Head of Police Powers Unit

**Reforms to Police Appeal Tribunals:** Michael Cordy, Head of Police Integrity Unit

**Access to DVLA records:** Mark Gilmartin, Head of Capabilities Reform Unit

**Extension of Drug Testing on Arrest:** Marcus Starling, Head of Drug Misuse Unit

**Powers of Entry to search for and recover stolen items:** Andy Johnson, Head of Police Powers Unit

**Foreign National Conditional Cautions:** Matthew Bligh, Deputy Director, Enforcement and Criminality Policy

**Lead Contact:** [CrimeandPolicingBillTeam@homeoffice.gov.uk](mailto:CrimeandPolicingBillTeam@homeoffice.gov.uk)

**Date:** 6 February 2025

For monitoring purposes all completed EIA documents must be sent to [psed@homeoffice.gov.uk](mailto:psed@homeoffice.gov.uk)

EIA enquiries must also be sent to [psed@homeoffice.gov.uk](mailto:psed@homeoffice.gov.uk)

**Date sent to PSED Team:** 6 February 2025