



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

### 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. Confiscation Regime Reform
2. Costs Protections for enforcement authorities
3. New offences covering the use of Electronic Devices for Vehicle Theft
4. Identification Doctrine Reform
5. Implementation of International Law Enforcement Data-Sharing Agreements
6. Possession and supply of SIM farms
7. Suspension of IP Addresses and Domain Names

#### Confiscation Regime Reform

Reform to the confiscation regime contained in Part 2 of the Proceeds of Crime Act 2002 ('POCA') to:

- Prioritise victims' and legitimate third-party interests:
  - Empower the Crown Court to direct that compensation (and other priority orders, such as Modern Slavery Reparation Orders) should be paid from sums recovered under a confiscation order, irrespective of a defendant's means.
  - Introduce a new measure to redirect funds from defendants to victims with compensation orders after a confiscation order is varied upwards, so that victims will benefit from funds which the state received previously.
  - Amend the laws that currently stop courts imposing compensation orders before confiscation proceedings have concluded.
- Early resolution of confiscation hearing: formalising the existing practice of agreeing confiscation orders prior to the confiscation hearing by introducing the Early Resolution of Confiscation process.
- More accurately value and define an individual's benefit from crime to ensure that confiscation orders made are realistic and proportionate.
- Allow prosecutorial discretion to disapply the criminal lifestyle provisions: to afford prosecutors greater flexibility to ensure confiscation orders are appropriately valued by inserting prosecutorial discretion regarding the application of criminal lifestyle provisions.
- Codifying the concept of "hidden assets": a concept created in case law to describe any unexplained difference in value between the defendant's benefit and the value of their known assets. This will be supplemented by factors to assist the court when determining where a defendant has hidden assets.
- Optimise enforcement by introducing enforcement plans to be imposed by the court upon making a confiscation order, detailing the orders the enforcing court can make

in the event the defendant fails to satisfy their outstanding debt. The measures also clarify the requirements for making a restraint order to ensure orders are more easily enforceable against identifiable assets and appoint confiscation assistance advisers to assist defendants in satisfying their confiscation orders.

- **Introduce provisional discharge** to allow outstanding confiscation orders to be placed in abeyance where there is no realistic prospect of recovery in the immediate term. The discharge would be provisional so that money could still be recovered in time if an order was revoked.
- **Clarify appeal routes within POCA**, including signposting other legislation where relevant to ensure that the law is clear, transparent and easily accessible.

### **Costs Protections:**

The Bill introduces costs protections for enforcement authorities in High Court civil recovery proceedings under Part 5 of the Proceeds of Crime Act 2002 (“POCA”).

### **Electronic Devices for use in Vehicle Theft:**

The Bill introduces two new criminal offences:

- An offence of making, modifying, supplying, offering to supply a specified article where a person has reasonable grounds to suspect that it will be used in any theft of a vehicle.
- An offence of possessing any specified article where a person intends or, has reasonable grounds to suspect, that it will be used in any theft of a vehicle.

### **Identification Doctrine:**

The Bill will enable a body corporate or partnership to be held criminally liable where a senior manager commits any offence while acting within the actual or apparent authority granted by the organisation.

### **Implementation of International Law Enforcement Data-Sharing Agreements:**

This measure creates a delegated power to make regulations to implement international agreements relating to the sharing of information for law enforcement purposes. This legislation will provide powers to implement operational and technical aspects of such international agreements via secondary legislation, once the agreements have been negotiated.

### **Possession and supply of SIM Farms:**

The Bill introduces new criminal offences to supply or possess a SIM farm, subject to specified exemptions for legitimate purposes, such as broadcasting and emergency service networks. The legislation also creates a power to ban other articles in the future, if there is high risk they are used in fraud and following subsequent consultation with stakeholders.

### **Suspension of IP Addresses and Domain Names:**

The Bill makes provision for investigative agencies (police, National Crime Agency, HMRC, Financial Conduct Authority and the Gambling Commission) to make an application to the court for an order to suspend a specified IP address and/or domain name for a specified period of time when there are reasonable grounds to believe that certain conditions are met (including that the address is being used, or will be used, for the purposes of serious crime,

that there is a link to the UK and that the suspension is necessary and proportionate). A suspension order can be made against entities overseas.

## 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 following measures were subject to public consultation. In having due regard to the public sector equality duty, the Department has considered fully the responses to the consultations.

1. Confiscation of the proceeds of crime after conviction: A [final report](#), Law Commission, 9 November 2022.
2. Previous Government's response to the Law Commission's review of [confiscation](#), Home Office, 25 October 2023.
3. Review of the Computer Misuse Act 1990: [Consultation](#) and response to call for information, Home Office, 7 February 2023.
4. Preventing the use of SIM farms for fraud: [Consultation](#) Home Office, 3 May 2023

The Department has particularly considered the following:

### Confiscation Regime Reform:

The Bill will create new powers and amend existing powers to enable proactive and swifter confiscation of criminal assets but this will not fundamentally alter the operation of the confiscation regime as it already exists. Many safeguards will be built into the reformed regime to govern its use. Of particular relevance to equalities issues:

1. To ensure that the consequences of confiscation orders are properly understood, the Government agrees that a requirement on the court to ensure that the meaning and significance of the recoverable amount is explained to the defendant would be valuable. Appropriate rules will be devised by the Criminal Procedure Rule Committee (in supplementary secondary legislation).
2. Particular policies, namely related to the calculation of benefit from crime, are to be amended to ensure a more realistic calculation of all individuals benefits of crime. This will ensure **a fairer application of the law**.
3. Fast tracked confiscation orders agreed as part of the "early resolution of confiscation process" will **remain subject to final judicial approval**.
4. Many **case law principles will be codified** to improve accessibility to the law namely in relation to (whether in the primary legislation or in supplementary secondary legislation, such a Court Rules):
  - a. Restraint – risk of dissipation.
  - b. Hidden assets.
  - c. Tainted gifts.
  - d. Release of funds to meet reasonable living expenses.
  - e. Release of funds to meet legal expenses.
5. The applicable **statutory code of practices** will be amended to reflect any changes to the relevant powers, to ensure those powers are used proportionately.

The general aims and objects of a statutory scheme for confiscation may result in a significant loss of funds (even to the point of destitution) for those subject to orders. This may also impact their family members or dependants. However, this has been considered justified for many years (since POCA came into force in March 2002) on the grounds that the confiscation of a person's "total benefit from crime" is in support of a legitimate aims: to strip criminals of their proceeds of crime ensuring crime does not pay; deterring prospective criminals; and to cease the financing of further criminality.

The reforms to the confiscation regime introduced in the Bill do not fundamentally alter the aims and objective of that regime, nor do they substantially change the operation of the powers to be out of step with Parliament's original intention. To ensure a continued proportionate and justified application of the powers, the reforms will be subject to safeguards to govern their use.

One indirect adverse impact is identified in respect of prisoners, who may find it challenging to facilitate the sale of their assets to satisfy a confiscation order while their access to telephone communications is limited and access to the internet is restricted. However, this is not a "new" impact – it may apply to prisoners subject to confiscation orders as imposed under the regime as originally introduced.

To mitigate any difficulties, the Department is including a provision for confiscation assistance advisers to be appointed to assist a defendant in satisfying their confiscation order where it might otherwise be challenging to do so.

### **Costs Protections:**

In recognition that civil recovery orders engage the right to peaceful enjoyment of possessions by permanently depriving a person of their property, and that costs restrictions are capable of constituting an interference with the right of access to a court under Article 6 of the European Convention of Human Rights ("ECHR"), the Department has included the additional 'just and reasonable test' as a safeguard.

This additional test is to ensure ECHR compatibility as it provides the court with the discretion to exercise a balance of judgement to deal with unexpected circumstances, such as substantial hardship, as set out in paragraph 40(7) of *Perinpanathan*: '*Other facts relevant to the exercise of the discretion conferred by the applicable procedural rules may also justify an order for costs. It would not be sensible to try exhaustively to define such matters...*' This additional public interest test will codify the *Perinpanathan* case in primary legislation in the High Court.

### **Electronic Devices for Vehicle Theft**

#### *Vehicle theft data - Crime Survey for England and Wales (CSEW)*

The Office for National Statistics (ONS) publishes quarterly statistical bulletins on crime against households and adults using data from police recorded crime and the 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:

- ONS, 'Property crime tables' (Year ending March 2023). Table 3. <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/focusonpropertycrimeappendixtables>

It should be noted 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.

The data presented below is for vehicle-related theft. The data represents the proportion of all vehicle owning households that were victims of vehicle-related theft.

<b>Sex</b>	<b>Percentage of people aged 16 and over who were victims of vehicle related theft</b>
Male	3.1%
Female	3.5%

<b>Ethnicity</b>	<b>Percentage of people aged 16 and over who were victims of vehicle related theft</b>
White	3.0%
Mixed	3.1%
Asian	5.2%
Black	5.1%
Other <sup>1</sup>	6.0%

<b>Age</b>	<b>Percentage of people aged 16 and over who were victims of vehicle related theft</b>
16-24	7.9%
25-34	4.0%
35-44	3.6%
45-54	3.8%
55-64	3.6%
65-74	1.9%
75+	1.4%

*Vehicle theft data – Criminal Justice System statistics quarterly: December 2023*

The Ministry of Justice publishes quarterly trends in the use of out of court disposals, defendants prosecuted, offenders convicted, remand and sentencing decisions in England and Wales.

- Ministry of Justice, 'Criminal Justice System statistics quarterly' (Year ending December 2023: Outcomes by Offence data tool)  
<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2023>

It should be noted this data primarily focuses on theft of a vehicle and only covers the protected characteristics of sex, ethnicity and age. The Department does not have specific data for the other protected characteristics. It also should be noted these are only statistics of those convicted so does not represent all those that commit vehicle theft.

The vehicle theft data presented below is comprised of two offence codes:

- Theft of a motor vehicle – summary (offence code 130)
- Theft of a motor vehicle (excl. Aggravated vehicle taking) - triable either way (offence code 48).

### Sex

Convictions (offence code 130 and 48):

Sex	Volume of convictions	Percentage of total
01: Female	107	5.5%
02: Male	1,781	92.1%
04: Not known	46	2.4%

### Ethnicity

Convictions data (offence code 48 only as offence code 130 had no breakdown by ethnicity)

Race	Volume of convictions	Percentage of total	Percentage of total (exc. 'unknown)
01: Asian	19	2.9%	4.4%
02: Black	14	2.1%	3.3%
03: Mixed	11	1.7%	2.6%
04: Other	383	0.5%	89.1%
05: White	3	57.6%	0.7%
06: Unknown	235	35.3%	N/A

### Age

Convictions data (offence code 130 and 48):

Age range	Volume of convictions	Percentage of total
02: 12-14	45	2.3%
03: 15-17	323	16.7%
04: 18-20	299	15.5%
05: 21-24	270	14.0%
07: 25-29	232	12.0%
08: 30-39	456	23.6%
09: 40-49	225	11.6%
10: 50-59	69	3.6%
11: 60-69	13	0.7%
12: 70+	1	0.1%
13: Not known	1	0.1%

### **Identification Doctrine:**

Although senior management are the group disproportionately affected by the extension in holding the corporation liable, it is justified on the following basis:

- Attribution of criminal liability to the company can only take place if the senior manager has committed a criminal offence and is liable to criminal prosecution in their own right.
- Senior managers take important decisions regarding the corporate policy and strategy of the company. This includes taking responsibility for how the business is managed and conducted, including delegating and supervising responsibilities to other employees.

- In large companies, decision-making responsibility can be decentralised and held across multiple areas of business. The extension of corporate criminal liability to senior managers can apply corporate criminal liability to more cases, better reflecting large or complex governance structures and ensuring it operates fairly across all businesses.

The majority of business owners in the UK, by far, are UK nationals, at 84.72%.<sup>1</sup> Under the current common law model, the identification doctrine disproportionately applies in practice to smaller business as it is easier to identify a person as their “directing mind and will”. The burden is therefore currently proportionately higher in businesses with a lower headcount and centralised management structures.

The extension to senior management aims to better capture and prosecute larger businesses compared to medium and smaller sized business. Larger businesses traditionally have more employees with different levels of responsibility and experience. By having a larger headcount, it could be assumed that these businesses are more diverse compared with smaller businesses that sometimes employ family and friends of similar background.

However, safeguards exist in relation to the prosecution of a company that governs the use of the identification doctrine for all business-types. Prosecutors must act in accordance with the Code for Crown Prosecutors – prosecutors can only start prosecutions if satisfied that the case has meets both stages of the two-code test:

- The prosecutor is satisfied that there is sufficient evidence to provide a realistic prospect of conviction.
- The prosecutor is satisfied that the prosecution is required in the public interest.

Guidance has been published by the Crown Prosecution Service to determine if the application of the two-code test to corporations. This places specific requirements on prosecutors to consider certain factors before pursuing a corporate prosecution. This includes, but is not limited to:

- Evidential – identifying the correct corporate from the outset that is accurately named; the employer/employee relationship is outlined; the directing mind must be clearly identified and their status and functions established.
- Public interest:
  - a. for prosecution: a history of similar conduct by the corporation; the alleged conduct is part of the practices of the company; failing to report the conduct; or
  - b. against prosecution: a positive approach to remedial action; the existence of a proactive and effective compliance programme; the offending represents the isolated actions by one individual.

### **Implementation of International Law Enforcement Data-Sharing Agreements:**

On the basis that the Bill provides for a regulation-making power, the Home Office does not consider that its introduction raises any equality considerations under the Public Sector Equality Duty. Therefore, the Department has not considered any evidence in this section.

Notwithstanding, any international agreements established and subsequent secondary legislation resulting from these will be considered with due regard to fulfil the requirements of the PSED at such juncture.

### **Possession and supply of SIM Farms**

Whilst all limbs and protected characteristics have been considered this assessment focuses on the impact of the policy proposals on Age, Race, Disability and Sex where the Department considers most impacts to lie. Duties under section 149 of the Equality Act 2010 have been considered as part of the development process of the proposals outlined in the consultation and have been further considered following the results of the consultation.

Due to lack of data on the prevalence of SIM farms in the UK, the analysis uses data on the prevalence and impact of wider fraud.

- **Geographic Region** – Adults resident in West Midlands and North East were the least likely to be victims of fraud (4.2%). Adults resident in South West (7.8%), the South East (7.0%), and the East Midlands (6.4%) were the most likely to be victims (CSEW Year End March 2024)<sup>1</sup>.
- **Sex** – A slightly higher proportion of women are victims of fraud with 6.3% of women and 5.0% of men being victims of fraud (CSEW YE March 2024)<sup>2</sup>
- **Age** – Fraud affects people across all ages. The age group with the highest proportion of victims are those aged 45-64 (6.9%). People aged 75+ (4.5%) were less likely to be a victim of fraud than the average adult 6.2%. (CSEW YE Mar 2024)<sup>3</sup>.
- **Disability** - Adults with a disability were more likely to be a victim of fraud (7.5%) than those without a disability (5.3%) (CSEW YE Mar 2024)<sup>4</sup>
- **Income** – A larger proportion of higher income households were victimised (the highest income group, +£52k, 7.2%) compared with lower income households (<£10,400, 5.1%; £10,400-£20,800, 6.3%) (CSEW YE Mar 2024)<sup>5</sup>
- **Occupation** – People with a managerial or professional occupation were more likely to be a victim of fraud (6.8%) than people with other occupations. Those who have never worked or are long term unemployed have the lowest proportion of victims (3.1%). (CSEW YE Mar 2024)<sup>6</sup>
- **Qualification levels** – Those who have no qualification represent a lower proportion of victims (3.3%) compared with those who have qualifications (e.g. those who have a degree or diploma represent 6.7%). This may be linked to their resulting profession and potentially greater income, rather than the qualification itself. (CSEW YE Mar 2024)<sup>7</sup>.

### **Suspension of IP Addresses and Domain Names:**

There is limited evidence available to consider when having due regard for public-sector equality in relation to the provision. While the Home Office publicly consulted on the Computer Misuse Act review in 2023, which included seeking views on suspending IP addresses and domain names, responses received were primarily from businesses, with some responses from individuals in the IT profession. Subsequent engagement with industry and law enforcement has not revealed any evidence of impacts that the proposed measures could have on persons with protected characteristics. The Department believes that the measure will not have a discriminatory effect against persons with any of the protected characteristics. Individuals may experience a positive impact from the measure due to the reduction in serious crime.

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<sup>1</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 8\]](#)

<sup>2</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)

<sup>3</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)

<sup>4</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)

<sup>5</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 8\]](#)

<sup>6</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)

<sup>7</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)



There is a lack of data available on the population who would be affected by the Crime and Policing Bill IP and Domain Name Suspension Power. Many cyber crime offenders are based overseas and/or are unknown to the victim. This is especially evident in the most recent year ending March 2024, where ‘investigation complete – no suspect identified’ accounted for 74% of investigative outcomes for Computer Misuse Act (CMA) offences. The number of CMA offenders that come into contact with the criminal justice service is also relatively low, with a total of 44 prosecutions and 28 convictions where CMA was the principal offence in the year ending June 2024, although there were an estimated 952,000 incidents of computer misuse experienced by individuals in England and Wales in the same year.

However, the below data source (population of offenders who have been convicted for Computer Misuse Act offences) provides an indicative picture of individuals who might be captured by this provision as there may be similarities between the cohorts given that these domain names and IP addresses will be associated with criminal activity. It is not certain though that there will be similarities between the cohorts affected by the bill and those who came into contact with the criminal justice service. It is also unclear whether offenders under the CMA are representative of the entire of computer misuse offenders. Despite these caveats, this is intended to provide a possible indicative picture.

The following cohorts were calculated using:

- The England and Wales population estimates by sex and age were created using the Official for National Statistics’ mid-2023 population estimates<sup>8</sup>. The data were filtered to include only those aged 10 years and over, to produce percentages comparable to the MoJ data, which includes individuals aged 10 years and over only.
- The cohort of those convicted for Computer Misuse Act 1990 offences filtered by sex and age was calculated using the Ministry of Justice Criminal Justice System statistics quarterly: June 2024<sup>9</sup>. The data was filtered for computer misuse offences using Home Office offence codes, and for the period between the year ending June 2018 and June 2024. The data is representative of offenders convicted across England and Wales.

Limitations: The data here only applies to England and Wales, while the PSED and Equality Act applies to the entirety of the UK, nonetheless, it is intended to give a possible indicative picture as to who may be affected disproportionately by this power.

As noted prior, the cohort of CMA offenders who also came into contact with the criminal justice system remains relatively low, with only 270 convicted for this offence between the year ending June 2018 and June 2023. As a result, it is likely that the considered cohort is not representative of the entire population of CMA offenders in England and Wales.

### **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

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<sup>8</sup> [Estimates of the population for the UK, England, Wales, Scotland, and Northern Ireland - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)

<sup>9</sup> [Criminal Justice System statistics quarterly: June 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

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.

### **Confiscation Regime Reform**

The Department does not expect that the proposed amendments to the Proceeds of Crime Act 2002 will directly or indirectly discriminate against any people based on having a protected characteristic.

### **Costs Protections**

The Department does not expect that the proposed amendments to the Proceeds of Crime Act 2002 will directly or indirectly discriminate against any people based on having a protected characteristic.

### **Electronic Devices used for Vehicle Theft**

#### Age

##### *Indirect Discrimination*

Regarding vehicle-related theft, the CSEW (Year End March 2023) shows that, those aged 16-24 were the most victimised at 7.9% (compared with those aged 25-34 who were the second most victimised at 4.0% and those aged 75+ who were the least victimised at 1.4%). Therefore, it will be more likely to have a positive effect on the 16-24 age group as victims of vehicle related crime.

Offenders aged between 30–39 are the highest proportion of those convicted of vehicle theft at 23.6%. As such, the Department notes that there may be a differential impact on individuals falling within this age group.

To the extent that these proposals lead to any disproportionate negative criminal justice outcomes for individuals on the basis of the protected characteristic of age, any indirect discrimination in terms of convictions and sentences is considered to be objectively justifiable, as these proposals are a proportionate means of achieving a legitimate aim. As above, these proposals will target individuals where they are involved in the commission or facilitation of vehicle theft and will have the positive effect of tackling vehicle theft and preventing harm inflicted on individuals and communities. Furthermore, any conviction under the proposed new supply and possession offences can only be carried out by a Court following a proper process, with the usual safeguards.

#### Disability

##### *Indirect Discrimination*

The Department's assessment of the evidence available is that the proposed new offences could potentially have a differential impact on people with disabilities, which can be appropriately mitigated.

#### Mental impairment, disorders or conditions:

The proposed new offences impose an objective test where a person has reasonable grounds to suspect that an article will be used in vehicle theft. That is, where a reasonable person with

access to the same information as the accused would have suspected that the article was for use in vehicle theft.

Some individuals with a mental impairment, disorder or condition amounting to a disability under section 6(1) of the Equality Act 2010 may be less able to identify reasonable grounds for suspicion that an article will be used in vehicle theft, for the purposes of committing the proposed new offences. It is therefore possible that some individuals with a mental impairment, disorder or condition may be more likely to come under scrutiny by law enforcement agencies on suspicion of committing the proposed new offences.<sup>4</sup>

However, the Department considers that the risks of any potential impact can be mitigated in the following ways: when making a decision to prosecute, the CPS must consider whether a prosecution is required in the public interest; the CPS has published legal guidance for prosecutors on making the decision to prosecute individuals with a mental health condition or disorder<sup>5</sup>; should an individual with a mental impairment, disorder or condition be convicted of one of the proposed new offences, if their level of culpability is lower this is likely to be reflected in more lenient sentencing by the courts.

The Department considers that any remaining residual risk of a negative impact can be objectively justified as proportionate means of achieving the legitimate aim of tackling vehicle theft and protecting the public from the risk of harm.

#### Autism:

Guidance suggests that autism can present itself as an intense interest in particular topics or items, including an interest in collecting items<sup>6</sup>.

The potential for interaction between autism and offences which criminalise the possession of articles, or the collection of materials, has been raised in relation to offences under the Terrorism Act 2000<sup>7</sup>. It is therefore possible that some individuals with autism could be more likely to come under scrutiny by law enforcement agencies on suspicion of committing the proposed new offences, if their autism plays a role in them having an intense interest in and/or collecting articles closely associated with vehicle theft<sup>8</sup>.

The following measures will help to reduce the potential for any negative impact: when making a decision to prosecute, the CPS must consider whether a prosecution is required in the public interest; the CPS has published legal guidance for prosecutors on making the decision to prosecute individuals with a mental health condition or disorder, including Autism Spectrum Disorder<sup>9</sup>; should an individual with a mental impairment, disorder or condition be convicted of one of the proposed new offences, if their level of culpability is lower this is likely to be reflected in more lenient sentencing by the courts.

The Department considers that any remaining residual risk of a negative impact can be objectively justified as proportionate means of achieving the legitimate aim of tackling vehicle theft and protecting the public from the risk of harm.

#### Race

##### *Indirect Discrimination*

Data from the CSEW (Year End March 2023) shows that Other<sup>10</sup>, Asian, and Black ethnic groups are most likely to be victims of vehicle-related theft. Therefore, the proposed legislation

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<sup>10</sup> 'Other' includes 'Arab' and 'any other ethnic group'.

will be more likely to have a greater positive effect on these ethnic group victims of vehicle crime.

- Other ethnic groups account for 6.0% of those victimised (whereas they constitute 2.1% of the population of England and Wales<sup>3</sup> so are over-represented as victims).
- Asian groups account for 5.2% of those victimised (whereas they constitute 9.0% of the population).
- Black groups account for 5.1% of those victimised (whereas they constitute 4.0% of the population so are over-represented as victims).
- Mixed groups as they account for 3.1% of those victimised (whereas they constitute 2.9% of the population of England and Wales).
- White groups account for 3.0% of those victimised (whereas they constitute 81.7% of the population).

Furthermore, CSEW data for Year End March 2023 shows that those not born in the UK experience a higher rate of vehicle related theft (4.6%), whereas those born in the UK experience less (3.0%). Therefore, the proposed legislation is more likely to have a greater effect on those not born in the UK.

White offenders currently make up 57.6% of those convicted for vehicle theft. The Department therefore notes there may be a differential impact on white offenders.

To the extent that these proposals lead to any disproportionate negative criminal justice outcomes for individuals on the basis of the protected characteristic of race, any indirect discrimination in terms of convictions and sentences is considered to be objectively justifiable as these proposals are a proportionate means of achieving a legitimate aim. However, that can only be anticipated on the basis that those people most often convicted under the new legislation will belong to the same communities or share the same protected characteristics as those currently convicted under existing legislation. As stated above, the intention of the proposals is, in fact, to catch those who may avoid justice under the present system despite bearing some degree of responsibility for the harm inflicted by others.

## Religion or Belief

### *Indirect Discrimination*

The CSEW for year ending March 2023 suggests that for vehicle-related theft, individuals of Muslim faith are most likely to be victimised (6.4%), compared to individuals of Sikh faith who are second most likely to be victimised (6.0%) and individuals of Buddhist faith who are least likely to be victimised (0.9%). From this data, these proposals are likely to have a more beneficial impact on these individuals as they are more likely to be victims of vehicle theft.

## Sex

### *Indirect Discrimination*

Regarding vehicle-related theft, the CSEW (YE March 2023) shows that 3.5% of women (who make up 51% of the population) and 3.1% of men (who make up 49% of the population) were victims of vehicle-related theft. Therefore, the proposed legislation will likely have a similar effect on females and males as victims of vehicle crime.

Men make up 92% of those convicted for vehicle theft. The Department therefore notes that there may be a differential impact on male offenders.

To the extent that these proposals lead to any disproportionate negative criminal justice outcomes for individuals on the basis of the protected characteristic of sex, any indirect discrimination in terms of convictions and sentences is considered to be objectively justifiable, as these proposals are a proportionate means of achieving a legitimate aim. As above, these proposals will target individuals where they are involved in the commission or facilitation of vehicle theft and will have the positive effect of tackling vehicle theft and preventing harm inflicted on individuals and communities. Furthermore, any conviction under the proposed new supply and possession offences can only be carried out by a Court following a proper process, with the usual safeguards.

## **Identification Doctrine**

### Age

#### *Indirect Discrimination*

Senior managers are more often experienced individuals and are more likely than not to have had more years working. There is therefore a higher average age among senior management who will be captured by the identification doctrine provisions. For instance, at the FTSE 100 companies, the average age of a male executive director is 54.1 years for male and 50.3 years for female.<sup>11</sup> In the civil service, the average age of senior civil servants is 48 years.<sup>12</sup> There are no mitigations or ways to avoid persons with these characteristics being disproportionately affected, however the Department considers this objectively justified when delivering the policy objective. The Department expects the proportion disproportionately affected to decrease over time as the number of workplace access schemes increase, opening opportunity for wider and more diverse senior management in the workplace.

### Disability

#### *Indirect Discrimination*

People with disabilities may proportionately be less likely to be captured by these provisions. According to the Office for National Statistics, just over one-quarter (25.7%) of employed disabled people hold senior management positions in comparison with just under one-third (32.3%) of employed non-disabled people.<sup>13</sup>

### Gender Reassignment

#### *Indirect Discrimination*

People who have undertaken gender reassignment may be proportionately less likely to be captured by these provisions. Although there is limited statistics on this, the findings of the National LGBT Survey revealed that transgender people were less likely to have had a paid job in the 12 months preceding the survey (65% of transgender women and 57% of transgender men had one).<sup>14</sup> This could indicate that those who have undertaken gender reassignment face more barriers in reaching senior management than their colleagues who have not.

### Race

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<sup>11</sup> [FTSE 100 Executive Directors' age by gender 2019 statistic \(Statista\)](#)

<sup>12</sup> [Age of the Civil Service \(Institute for Government\)](#)

<sup>13</sup> [Disability and employment, UK - Office for National Statistics \(ons.gov.uk\)](#)

<sup>14</sup> [National LGBT Survey: Summary report - GOV.UK](#)

### *Indirect Discrimination*

According to the Gov.uk statistics on ethnicity in occupation, people who are white or mixed race are more likely to be captured by these provisions. According to these findings, 10.7% of white people are managers, directors and senior officials and 11.1 % are mixed ethnicity.<sup>15</sup> 4.6% of black people are managers, directors.<sup>16</sup> There are no mitigations or ways to avoid persons with these characteristics being disproportionately affected when delivering the policy objective. The Department expects the proportion disproportionately affected to decrease over time as the number of workplace access schemes increase, opening opportunity for wider and more diverse senior management in the workplace.

### Sex

#### *Indirect Discrimination*

A higher proportion of senior management are male so the Department would expect males to be proportionately more affected by the provisions. For instance, in the financial services, senior persons in larger firms were 23% female and smaller firms 17% female.<sup>17</sup> There are no mitigations or ways to avoid persons with these characteristics being disproportionately affected when delivering the policy objective. The Department expects the proportion disproportionately affected to decrease over time as the number of workplace access schemes increase, opening opportunity for wider and more diverse senior management in the workplace.

### Sexual Orientation

#### *Indirect Discrimination*

People who are LGBTQ+ may be proportionately less likely to be captured by these provisions. Although there is limited statistics on this, the findings of the National LGBT Survey revealed that twenty three percent of LGBT persons had experienced a negative or mixed reaction from others in the workplace due to being LGBT or being thought to be LGBT.<sup>18</sup> This could indicate that they face more barriers in reaching senior management than their non-LGBT colleagues.

## **Implementation of International Law Enforcement Data-Sharing Agreements**

On the basis that the Bill provides for a regulation-making power, the Department does not consider that its introduction raises any considerations under this limb. Notwithstanding, any international agreements established and subsequent secondary legislation resulting from these will be considered with due regard to fulfil the requirements of the PSED at such juncture.

## **Possession and supply of SIM Farms**

### Age

#### *Indirect Discrimination*

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<sup>15</sup> [Employment by occupation - GOV.UK Ethnicity facts and figures](#)

<sup>16</sup> [UK: Only 1.5% of senior roles held by black people \(hrreview.co.uk\)](#)

<sup>17</sup> [Financial Services - senior jobs are still mostly for the boys \(FCA Insight\)](#)

<sup>18</sup> [National LGBT Survey: Summary report - GOV.UK](#)

A common misconception is that vulnerable or older people are at predominantly at risk to fraud. This can lead to misplaced confidence, making some people less likely to take steps to protect themselves. Fraud data does not indicate that a certain age group is more likely to be impacted by the policy. In particular, those aged 75+ experience less fraud than other age categories, with the most commonly victimised age bracket being 45-64 (CSEW YE March 2024)<sup>19</sup>. However, some data also suggests that the pace of technological change is such that it may make it harder for certain demographics, including those in the 75+ bracket, to spot and avoid frauds.

The policy is designed to protect all the general public from fraud, regardless of their age. Moreover, the policy aims to reduce the presence and prevalence of telecommunications-enabled fraud and is therefore likely to reduce the burden on elderly, less technologically literate people to educate themselves on telecommunications safety. Therefore, while the policy may result in indirect discrimination in favour of older demographics, the Department considers it to be objectively justified as it protects those with less technological literacy.

## Disability

### *Indirect Discrimination*

The Department is not aware of any evidence indicating indirect discrimination against individuals on account of disability. The Department knows that fraudsters may seek those who are cognitively impaired or who may be neurodivergent. Adults with a disability were more likely to be a victim of fraud (7.5%) than those without a disability (5.3%) (Year End March 2024)<sup>20</sup>.

The policy aims to stop fraud from reaching citizens. This is likely to reduce the burden on those who may not have, or be able to develop, the skills and knowledge needed to safeguard against fraud. Therefore, it is expected that the policy will strengthen the protection of individuals with disabilities against fraud.

The Department is also aware that criminals often exploit vulnerable people and either trick or coerce them into committing a crime. However, law enforcement and safeguarding agencies already have systems, policies and policies in place to support vulnerable people exploited by criminals, such as:

1. '*Vulnerability and violent crime interventions*', College of Policing available at: <https://www.college.police.uk/research/vulnerability-violent-crime-interventions>
2. '*Criminal Exploitation of children and vulnerable adults: County Lines*', Home Office available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/863323/HOCountyLinesGuidance\\_-\\_Sept2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863323/HOCountyLinesGuidance_-_Sept2018.pdf)
3. '*Both sides of the coin: The police and National Crime Agency's response to vulnerable people in 'county lines' drug offending*', Justice Inspectorate available at: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/both-sides-of-the-coin-police-nca-response-vulnerable-people-county-lines-drug-offending.pdf>
4. '*County Lines: Protecting Our Communities and Families*', Crimestoppers available at <https://crimestoppers-uk.org/keeping-safe/community-family/county-lines>

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<sup>19</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)

<sup>20</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)

The existing safeguards are expected to mitigate any impact of the proposed offence on vulnerable people to ensure they are not disproportionately targeted if engaging in banned activity. Exploitation or vulnerability would not be a defence but a mental disorder, learning disability or lack of maturity could be taken into account in sentencing.

## Sex

### *Indirect Discrimination*

The evidence suggests that a slightly higher proportion of women are victims of fraud with 6.3% of women and 5.0% of men being victims of fraud (CSEW YE Mar 2024)<sup>21</sup>. However, the Department believes that there is nothing being proposed that discriminates against someone because of sex and the policy is designed to protect particularly the most vulnerable to fraud, irrespective of their sex.

## **Suspension of IP Addresses and Domain Names**

## Age

### *Indirect Discrimination*

Evidence suggests that individuals in the age range of 21-29 and 30-39 years old are overrepresented in the cohort of those convicted for Computer Misuse Act offences. Of the individuals convicted, 32% were aged 21-29 years old and 29% were aged 30-39 years old compared to the general England and Wales population aged 10 years and over where 13% were aged 21-29 and 15% were aged 30-39. The proportion of individuals convicted who were aged 40-49 years old was also overrepresented, though less so, with this age group consisting of 18% of those convicted, while only representing 14% of the population in England and Wales.

As such, it is noted that individuals from younger age groups may be more disproportionately affected by this measure as opposed to those from older groups. However, the Department considers this objectively justified in order to meet the policy aim of suspending IP addresses and domain names that are used to facilitate serious crime.

## Sex

### *Indirect Discrimination*

Evidence demonstrates that men are overrepresented in the cohort of those convicted for Computer Misuse Act offences. The percentage of those that were convicted for these offences who were male was 81%, while men consist of an estimated 49% of the England and Wales population aged 10 years and over. Therefore, there may be a differential impact on males. However, the Department considers this objectively justified in order to meet the policy aim of suspending IP addresses and domain names that are used to facilitate serious crime.

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

### **Confiscation Regime Reform**

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<sup>21</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)



There is no evidence to suggest that this measure affects the equality of opportunity between people who share a protected characteristic and people who do not share it. The policy neither adds nor minimises disadvantages suffered by people with particular protected characteristics with regards to their opportunities.

### **Costs Protections**

There is no evidence to suggest that this measure affects the equality of opportunity between people who share a protected characteristic and people who do not share it. The policy neither adds nor minimises disadvantages suffered by people with particular protected characteristics with regards to their opportunities.

### **Electronic Devices used for Vehicle Theft**

These new offences are focused on improving law enforcement's response to vehicle theft. These measures neither negatively or positively affect the advancement of equality of opportunity between people who share a protected characteristic and people who do not share it.

### **Identification Doctrine**

There is no evidence to suggest that this measure affects the equality of opportunity between people who share a protected characteristic and people who do not share it. The policy neither adds nor minimises disadvantages suffered by people with particular protected characteristics with regards to their opportunities.

### **Implementation of International Law Enforcement Data-Sharing Agreements**

On the basis that the Bill provides for a regulation-making power, the Department does not consider that its introduction raises any considerations under this limb. Notwithstanding, any international agreements established and subsequent secondary legislation resulting from these will be considered with due regard to fulfil the requirements of the PSED at such juncture.

### **Possession and supply of SIM farms**

#### Age

Data suggests that the most commonly victimised age group is 45-54 (CSEW YE March 2024)<sup>22</sup>. There is also evidence that it is more difficult for those in aged 75+ to spot and avoid frauds, due to their limited understanding of technology. The policy is designed to minimise these disadvantages by reducing criminals' ability to attempt fraud via scam calls and scam texts in the first place. It is likely to reduce the burden on elderly, less technologically literate people to educate themselves on telecommunications safety.

#### Disability

The evidence suggests that fraudsters may seek those who are cognitively impaired or who may be neurodivergent. Adults with a disability were more likely to be a victim of fraud (7.5%) than those without a disability (5.3%) (Year End March 2024)<sup>23</sup>. The policy aims to stop fraud from reaching citizens in the first place. This is likely to reduce the burden on those who may

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<sup>22</sup> [\[CSEW March 2024 Nature of fraud and computer misuse in England and Wales Appendix Tables : Table 7\]](#)

<sup>23</sup> [Nature of fraud and computer misuse in England and Wales: appendix tables - Office for National Statistics \(Table 7\)](#)

not have, or be able to develop, the skills and knowledge needed to safeguard against fraud by making it difficult for criminals to target their victims in the first place.

There is no evidence that this measure, which is focused on stopping fraudsters from trying to contact potential victims, will negatively or positively affect the advancement of equality of opportunity between persons who share other protected characteristics and persons who do not share them.

### **Suspension of IP Addresses and Domain Names**

There is no evidence to suggest this measure will affect the equality of opportunity between people who share a protected characteristic and people who do not share it. The policy neither adds nor minimises disadvantages suffered by people with particular protected characteristics in regard to their opportunities.

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

The measures in this assessment are directed at the prevention of crime and they will not be used to help build or enable better relationships between groups with protected characteristics and those who do not whether directly or indirectly.

There is nothing in these measures that can be seen to be considered or perceived to be favouritism or discrimination of any group that has a protected characteristic and there is little chance it will lead to a protected group or those not in a protected group blaming one another for any benefit or problem as it does not focus on any specific characteristics whether directly or indirectly.

### **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?**

#### **Electronic Devices used for Vehicle Theft**

This policy will only be imposed on individuals following a fair legal process with the usual safeguards. The Department will work closely with legal experts on the proposed defences in relation to the new criminal offences, including a defence of 'acting reasonably', to ensure legitimate possession and supply of such articles are accounted for by the court.

#### **Identification Doctrine**

Data has shown that senior management are proportionately more likely to be of higher age, male, white and not identify as LGBTQ+. There are no mitigations or ways to avoid persons with these characteristics being disproportionately affected when delivering the policy objective, however the Department considers this to be objective justifiable as these proposals are a proportionate means of achieving a legitimate aim.

The Department expects the proportion disproportionately affected to decrease over time as the number of workplace access schemes increase, opening opportunity for wider and more diverse senior management in the workplace.

### **5. Review Date**

The measures in the Bill will be subject to 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:

**Confiscation Regime:** Tom Bell, Deputy Director Criminal Finance and Asset Recovery

**Costs Protections:** Tom Bell, Deputy Director Criminal Finance and Asset Recovery

**Electronic Devices for Vehicle Theft:** Paul Regan, Head of Neighbourhood Crime Unit

**Identification Doctrine Reform:** Tom Bell, Deputy Director Criminal Finance and Asset Recovery

**Implementation of International Law Enforcement Data-Sharing Agreements:** Emma Gibbons, Head of International Law Enforcement Cooperation Unit

**Possession of SIM farms:** Fran Dowling, Head of Fraud Policy Unit

**Suspension of IP Addresses and Domain Names:** John Evans, Head of Cyber Policy Unit

**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