

Title: Victims and Courts: Courts Measures IA No: MoJ020/2025 RPC Reference No: n/a Lead department or agency: Ministry of Justice (MoJ) Other departments or agencies: Crown Prosecution Service (CPS)	Impact Assessment (IA)			
	Date: 6 May 2025			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
	Contact for enquiries: Rachel Bennion, Bill Manager. Rachel.bennion@justice.gov.uk			
Summary: Intervention and Options				RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option (in 2024/25 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£11.4m	N/A	N/A	Not a regulatory provision

What is the problem under consideration? Why is government action or intervention necessary?

There are several issues in the criminal justice system which need reform. These include: instances where victims and their families are caused distress and the administration of justice is undermined where offenders refuse to attend their sentencing hearing; the potential inequities which may arise where the fees paid from public funds to private prosecutors rates are far higher than those for criminal legal aid and the CPS; the unsustainable operation of the Unduly Lenient Sentencing scheme; situations where the CPS is unable to employ individuals with appropriate professional qualifications as Crown Prosecutors; and where there are offences that are triable either way which have not been captured by the latest legislation on extending magistrates sentencing powers. Government intervention via the Victims and Courts Bill, is therefore necessary to ensure that the criminal system operates efficiently and fairly.

What are the policy objectives of the action or intervention and the intended effects?

The policy objectives are to improve the efficiency and fairness in the criminal justice system by:

- Clarifying and extending the law in this area to help reduce the distress of victims, their families and the wider public caused by offenders' refusal to attend their sentencing hearing and to uphold the authority of the court,
- enabling greater flexibility regarding who the Director of Public Prosecutions can designate as a Crown Prosecutor,
- enabling the Lord Chancellor to set the rates for private prosecutions to be recovered from public funds
- guaranteeing that the Attorney General's Office (AGO) has 14 days to apply for leave to refer unduly lenient sentences to the Court of Appeal, and
- bringing six specific triable either-way offences in line with all other triable-either way offences so that they can dealt with in the magistrates' court.

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

Two options are considered in this Impact Assessment:

- Option 0:** Do nothing. No changes are made to the criminal law, management of offenders, or wider criminal justice processes.
- Option 1:** Full implementation, in which all measures outlined are introduced.
 - 1: Non-attendance at Sentencing Hearings
 - 5: Crown Prosecutors
 - 6: Private Prosecutors
 - 7: Unduly Lenient Sentencing
 - 8: Magistrates Sentencing Powers

The government's preferred approach is Option 1 as it meets strategic and policy objectives of improving efficiency and fairness in the criminal justice system.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: n/a

Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	Micro No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: n/a		Non-traded: n/a

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

Signed by the responsible Minister:

Alex Davies

Date:

06 May 2025

Summary: Analysis & Evidence

Policy Option 1

Option 1: Full implementation, in which all measures outlined are introduced.

FULL ECONOMIC ASSESSMENT

Price Base Year 24/25	PV Base Year 25/26	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -8.2	High:-15.5	Best Estimate: -11.4

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2.1	15	1.0	10.6
High	5.5	14	1.6	18.7
Best Estimate	3.4	14	1.3	14.2

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

Non-attendance at sentencing hearings (Measure 1) has an average annual cost across the appraisal period of £1.1m, a transition cost of £3.4m, and an annual cost of £1.4m once the steady state has been reached after 12 years from implementation. It will require 5 additional prison places in steady state, alongside annual running costs for the prison escort custody service, HMCTS and the LAA.

Magistrates' sentencing powers (Measure 8) will bring six triable either-way offences in line with all other triable-either way offences and is anticipated to have an average annual cost of £0.2m.

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

Measure 1 may see more offenders spending longer in custody and additional hearing time in the Crown Court. This may exacerbate overcrowding pressures (if there is insufficient prison capacity) and the backlogs in the Crown Court. There are negligible non-monetised costs associated with Measures 5, 6, and 7.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-	-	0.3	2.4
High	-		0.4	3.2
Best Estimate	-		0.3	2.8

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

By diverting 350 committals for sentencing from the Crown Court to the magistrates' court, equivalent to 83 sitting days Magistrates' sentencing powers (Measure 8) will have an annual cashable benefit of £0.3m to HMCTS and the LAA.

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

Measure 1 will help to reduce the distress caused to victims and families and ensures that victims, their families and the wider public sees the full administration of justice by addressing perpetrators refusal to attend their sentencing hearing. Measure 5 will increase the pool of potential Crown Prosecutors (CPs) that the CPS can hire from. Measure 6 will reduce inequities in the current system and ensure a fair balance of costs in private prosecution and defence cases. Measure 7 should improve the administration and efficiency of the unduly lenient sentencing scheme. Measure 8 will bring wait times down and provide swifter access to justice for victims in these cases.

Key assumptions/sensitivities/risks Discount rate (%)	3.5
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Key assumptions include implementation in 2026/27 for Measure 1 and 2025/26 for all other measures. Future volumes are based on data from 2022 and 2023. Sensitivity analysis has been used to explore how key assumption changes affect the costs and benefits (see paragraphs 98-103) for Measures 1 and 8.

BUSINESS ASSESSMENT (Option 1)

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

Evidence Base

A. Background

1. The Victims and Courts (VAC) Bill contains legislative measures that will ensure that the criminal justice system (CJS) better meets the needs of victims and improves efficiency in the criminal courts.
2. This impact assessment (IA) assesses the following legislative courts and public protection measures which form part of the Victims and Courts Bill:

Table 1: Measures in the Victims and Courts Bill

Policy Measure	Policy Description
1 Non-attendance at Sentencing Hearings (NASH)	<ul style="list-style-type: none">• To ensure that offenders attend their sentencing hearing and face up to their crimes, and that the authority of the court and the administration of justice is upheld by:<ol style="list-style-type: none">i. creating an express statutory power for the Crown Court to directly order offenders to attend their sentencing hearing and to punish those who refuse without reasonable excuse to comply with such an order;ii. making it clear that prison staff and Prisoner Escort and Custody Services (PECS) officers may use reasonable force to ensure attendance, if necessary and proportionate to do so; andiii. creating a power for a Judge to order prison sanctions for those who refuse without reasonable excuse to comply with an order to attend their sentencing hearing, with those sanctions available in line with those available to a governor in the Prison Rules for an offence against discipline. Secondary legislation will specify the sanctions available to a Judge in these circumstances, and the grounds on which a Governor can use their discretion to override the order where it is considered necessary (such as on health and safety grounds).
5 Crown Prosecutors	<ul style="list-style-type: none">• The Crown Prosecution Service (CPS) can only appoint Crown Prosecutors (CP) who have a 'general qualification' as defined in Section 71 of the Courts and Legal Services Act 1990. This requires prospective CPs to, at a minimum, have rights of audience in relation to any class of proceedings in any part of the Senior Courts, or all proceedings in county courts or magistrates' courts. However, this requirement unnecessarily restricts the CPS's recruitment pool. For example, it can exclude Chartered Institute of Legal Executives (CILEX) practitioners, many of whom

	<p>have relevant experience in criminal litigation with independent practice rights and rights of audience.</p> <ul style="list-style-type: none"> • This measure will remove this legislative barrier and give more flexibility to the Director of Public Prosecutions (DPP) in who they designate as CPs. In particular, this measure will allow (but not require) the CPS to appoint other types of legal professionals who may have suitable experience and qualifications to perform the CP role (e.g CILEX practitioners) as CPs, thereby supporting efforts to broaden and diversify the CP recruitment pool. Government intervention is required as this measure requires primary legislation.
6 Private Prosecutors	<ul style="list-style-type: none"> • At present there are no set rates for costs which can be recovered from public funds in relevant private prosecutions. • The bill will legislate to make an enabling power for the Lord Chancellor to set the rates for private prosecutions costs.
7 Unduly Lenient Sentencing	<ul style="list-style-type: none"> • This measure will amend the 28-day time period that applies when the Attorney General refers a case to the Court of Appeal where it appears that the sentence imposed by the Crown Court has been unduly lenient. • The amendment will mean that where a request is made to the Attorney General in the last 14 days of that 28-day time limit, the Attorney General has 14 days from the date of receipt to make the referral to the Court of Appeal, if appropriate.
8 Magistrates' Sentencing Powers	<ul style="list-style-type: none"> • This measure will amend legislation in relation to six specific triable either-way offences so that the maximum penalty on summary trial is specified as being "the general limit in the magistrates' court", rather than "6 months" as is currently stated in legislation for those offences. • This measure will bring these six offences in line with all other triable either-way offences that post-date 2003, for which the maximum penalty on summary trial is specified as being "the general limit in the magistrates' court".

1 Non-attendance at Sentencing Hearings

3. There have recently been instances where offenders have refused to attend their sentencing hearings. This absence can cause distress for victims and their families who view it as a "final insult" and denying the victim, their family and the wider public the opportunity to see the full administration of justice, and allowing the offender to avoid having to listen to victims' personal statements and the judge's remarks and so to confront the consequences of their crime. Introducing punishment directed at this behaviour is intended both to act as a deterrent and to uphold the authority of the court. This issue has generated a strong public reaction and raised questions about the ability of the courts to support victims and ensure that offenders face up to their crimes. We are aware that some families of victims have been

prominent in campaigning for a change in the law to compel attendance at sentencing hearings, often citing the offender's refusal to attend as a "final insult". There has also been media interest in the issue, following several high-profile offenders refusing to appear and campaigns from several national media outlets including the Mirror who ran the 'Face Justice' campaign.

4. Currently, the court may order an offender to attend their sentencing hearing and direct the prison authorities to produce an offender held in custody, but this is not explicitly set out in statute. However, they do already have the discretion to direct an offender who is in custody to attend court, and any wilful refusal can result in a finding of contempt. In cases where an offender refuses a direction from the court, prison staff must make all attempts to persuade the offender to attend, including giving a direct order. Prisoners can be charged with a disciplinary offence, via the internal prison disciplinary system, if they disobey a lawful prison order. This could result in, for example, forfeiture of privileges in prison for a maximum period of 42 days and in some cases cellular confinement for a period not exceeding 21 days.
5. There are existing arrangements in place for circumstances where an offender refuses to attend their sentencing hearing. In such cases prisons are required to make all efforts to persuade the offender to attend. Force can only be used as a last resort and is unlikely to be considered necessary in cases where sentencing can go ahead in the offender's absence. Any decision to use force is the responsibility of trained prison staff and escorting officers and must be lawful, i.e., necessary, reasonable, and proportionate. If use of force is considered unlawful, the prison will tell the court accordingly. However, there is a lack of clarity among prison and Prison Escort and Court Services (PECS) officers about when reasonable force can be used.
6. Given that an offender delivered by force is more likely to be disruptive or abusive in court and delay proceedings, judges may feel that proceeding without the offender, or having the offender appear via video link, is more appropriate.
7. The VAC Bill will legislate to give Crown Court judges an express statutory power to order the attendance of offenders at their sentencing hearing and sanction those who refuse to comply with such an order with up to two years imprisonment and/or the imposition of prison sanctions. The Bill will create a power for the Secretary of State to make regulations to specify the sanctions available, which can only be drawn from the punishments available to a governor under prison rules for an offence against discipline.

5 Crown Prosecutors

8. Crown Prosecutors (CP) are usually qualified solicitors and barristers who work for the Crown Prosecution Service (CPS). They are responsible for prosecuting criminal cases that have been investigated by the police and other investigative organisations.
9. Under S.1(3) of the Prosecution of Offences Act 1985, CPs are required to have a 'general qualification' as defined in Section 71 of the Courts and Legal Services Act 1990 (The Act). This requires prospective Crown Prosecutors to, at a minimum, have rights of audience in relation to any class of proceedings in any part of the Senior Courts, or all proceedings in county courts or magistrates' courts.

10. As the legal services market has evolved and new routes to qualification emerge, such as the Chartered Institute of Legal Executives (CILEX¹) qualification routes, the legislative requirement for a 'general qualification' has become increasingly unjustified.
11. As they do not normally have this 'general qualification', the current legislation also means that the CPS currently cannot usually appoint certain legal professionals, such as members of CILEX, to work as CPs even when the practitioner's specialism is criminal litigation with relevant independent practice rights and rights of audience. CILEX members already exercise many of the same functions as solicitors and work within the CPS as core elements of the wider delivery of legal services.
12. The Ministry of Justice (MoJ) therefore intends to amend the relevant legislation to enable more flexibility as to who can be considered for CP roles, subject to the DPP's discretion. Creating legislative flexibility by enabling the CPS to determine who can be considered for CP roles, may in turn help to deliver swifter justice for victims by widening the pool of CP candidates.
13. The MoJ is also taking forward this initiative to broaden the pool of prospective CPs with a wider and more diverse range of candidates available, and may improve equality of opportunity in the sector and social mobility, as other legal professionals (e.g., CILEX practitioners) qualify through a non-traditional (non-graduate) route into the profession

6 Private Prosecutors

14. The Magistrates' court sees thousands of private prosecutions annually although the volume in the Crown Court is far lower (there is no robust data on the precise numbers).
15. The Prosecution of Offences Act 1985 (POA) allows those bringing a private prosecution to seek a costs order. In most instances these proceedings are funded privately by the complainant, with costs awarded against the defendant upon conviction (dependent on means). However, a small proportion of private prosecutions result in a claim from Central Funds (a budget for costs awarded under Part II of the POA). These cases tend to either concern low-level shoplifting/theft or low-value fraud, and are prosecuted by companies or (occasionally) charities, or high-value dishonesty, normally brought by high net-worth individuals. In 2023/24, costs for 79 cases at the Magistrates' court, and 38 cases at the Crown Court were reimbursed from Central Funds.
16. In such cases, and where a judge does not fix an amount, the POA provides for the Court to order 'such amount as the Court considers reasonably sufficient to compensate the prosecutor for any expenses properly incurred by him in the proceedings.' As the POA 1985 did not accord the Lord Chancellor the powers to set remuneration rates, by convention the Court and the Legal Aid Agency (LAA) employ Senior Courts Costs Office (SCCO) guideline rates, which are intended to reflect the civil market rates of pay and are significantly higher than the equivalent criminal legal aid rates. SCCO rates are now increased on an annual basis in line with inflation, in contrast with how rates paid to state prosecutors, or those in receipt of legal aid, are increased.

¹ The CILEX Professional Qualification (CPQ) is a progressive framework designed to develop specialist lawyers, regardless of whether they have a degree. The CPQ comprises three stages: Foundation, Advanced and Professional with each stage building on legal knowledge and skills. The pathway enables individuals to qualify as specialist practitioners in areas such as criminal litigation, often while working and gaining practical experience at the same time.

17. Even with the SCCO guidelines, the lack of prescribed rates makes assessment of reasonableness both subjective and imprecise. The only safeguard is the Court's (or Criminal Case Unit Determining Officer's) assessment of the reasonableness of the expenses incurred, an assessment open to challenge by way of an appeal to a Costs Judge (Crown Court cases) or Judicial Review (Magistrates' court cases).
18. Furthermore, the SCCO guideline rates have historically been around five times higher than equivalent criminal legal aid rates, although there is no evidence that the cases are more complex. In 2020, the Justice Select Committee (JSC) recommended that the Government should review funding for private prosecutions, noting the importance of 'ensuring a fair balance between the prosecutor and the defendant.'² Indeed, current legislation may encourage perverse behaviour, whereby the prospect of a private prosecutors' costs order may create an appetite for litigation pursued more with the motivation of commercial interest.
19. This measure in the Victims and Courts Bill will therefore give the Lord Chancellor an enabling power to set rates at which prosecutor expenses in private prosecutions can be recovered from Central Funds. Such a power will help reduce the disparity in the amounts which may be claimed between private prosecutors and the defence in legally aided cases thereby providing greater fairness and providing clarity on the subjectiveness of the 'reasonableness' question. It will also ensure the most cost-effective use of public funds as the expenses recoverable by private prosecutors from public funds will be more proportionate to publicly funded defence rates.

7 Unduly Lenient Sentencing

20. The Unduly Lenient Sentencing (ULS) scheme gives the Attorney General the power to apply for leave to refer a sentence which appears unduly lenient for review by the Court of Appeal. Pursuant to the Law Officers Act 1997, this power may also be exercised by the Solicitor General. On review, the Court may quash the sentence and impose a different sentence.
21. The bar to increasing a sentence is a high one. The Court of Appeal will only grant permission to refer a sentence in exceptional circumstances: for example, if the judge has made some gross error, or has passed a sentence that falls outside the range of sentences which a judge, applying their mind to the relevant factors, could reasonably consider appropriate.
22. In 2019, the Attorney General's Office (AGO) received 983 referrals to review a sentence, and over 1,200 in 2023 which indicates that awareness of the scheme has improved. The AGO also clearly advertises the ULS Scheme on its website and regularly publishes updates of the outcome of unduly lenient sentence referrals to the Court of Appeal in the press and on social media. The CPS also provides information about the scheme to victims.
23. There is currently a time limit of 28 days from the date of sentence for the Attorney General to apply to the Court of Appeal for leave to refer a sentence. This is a strict time limit to ensure there is finality in sentencing for both offenders and victims, and Parliament intended this to be an exceptional power. Whilst the reasoning behind the time limit is right, the 28-day time period can create practical issues, as potential unduly lenient sentences are often brought to the Attorney General's attention close to expiry of the 28-day time period which limit the amount of time the Attorney General has to consider the case.

² [Private prosecutions: safeguards](#) – 9th Report of Session 2019-2021 (2 October 2020) – Para. 37

24. In particular, the AGO is wholly reliant on the Crown Prosecution Service (CPS) to provide the relevant case papers and often seeks the advice of Treasury Counsel, both of which take time. Completing these steps in time can lead to advice needing to be given and decisions taken at very high speed.
25. These practical issues have been exacerbated in recent years, as the number of requests received by the AGO to review a sentence has greatly increased, including those received closer to the 28-day time period. For example, in 2024, of the 831 sentences considered by the AGO, 108 were received on days 15-28. This is a particularly concerning number for the AGO, given the substantive amount of consideration required by a Law Officer for every individual in each case.
26. This has resulted in an unsatisfactory and unsustainable situation for the operation of the ULS scheme. This measure will ensure the AGO has sufficient time to consider the cases and so allow the scheme to run more sustainably.

8 Magistrates' Court Sentencing Powers

27. On 2 May 2022, the previous government increased magistrates' court sentencing powers from 6 months to 12 months for most single triable either-way offences by commencing section 282 of the Criminal Justice Act 2003.
28. On 14 July 2022, the Judicial Review and Courts Act 2022 established separate general limits for magistrates' court sentencing powers for summary and either-way offences. It also allowed the Secretary of State for Justice to vary the limit for single triable either-way offences to either 6 months or 12 months via a negative Statutory Instrument.
29. Further legislation was introduced to clarify the combined effect of these changes and to amend over 200 offences, replacing references to "12 months" with "the general limit in a magistrates' court."
30. Six triable either-way offences were not covered by this legislation because their maximum penalty was specified as "6 months" instead of "12 months." These offences are listed in section C of this IA.
31. This measure will change the maximum term for these six offences from "6 months" to "the general limit in a magistrates' court," aligning them with other triable either-way offences. This is particularly important now, given the recent increase in magistrates' court sentencing powers to 12 months for a single triable either-way offence to avoid confusion and errors in sentencing.

B. Policy Rationale and Objectives

Rationale

32. The conventional approach to government intervention is based on efficiency or equity arguments. Government may consider intervening if there are strong enough failures in the way markets operate, for example monopolies overcharging debtors, or if there are strong enough failures in existing government interventions, such as outdated regulations generating inefficiencies. In all cases the proposed intervention should avoid generating a further set of disproportionate costs and distortions. Government may also intervene for reasons of equity (fairness) and for re-distributional reasons (e.g. reallocating resources from one group in society to another).

33. The policy rationale for these measures are equity and efficiency. Government intervention is necessary to ensure that the criminal justice system operates efficiently and fairly. The bill will promote equity by ensuring offenders receive the punishment they deserve and by promoting greater fairness between the parties involved in private prosecutions. Efficiency will be advanced by ensuring that offences are dealt with by the most appropriate court and that those with the necessary skills can become Crown Prosecutors. The combined effect will be to better protect the public and to increase their confidence in the justice system.

Policy Objectives

34. The associated policy objectives are to:
- i. Help reduce the distress of victims and their families caused by their perpetrators refusal to attend their sentencing hearing, and ensure that justice is seen to be done,
 - ii. enable greater flexibility regarding who the Director of Public Prosecutions can designate as a Crown Prosecutor,
 - iii. enable the Lord Chancellor to set rates for private prosecutions.
 - iv. guarantee the Attorney General's Office (AGO) 14 days to apply for leave to refer a sentence which appears unduly lenient to the Court of Appeal.
 - v. bring six specific triable either-way offences in line with all other triable-either way offences so that they can dealt with in the magistrates' court, and

C. Affected Stakeholder Groups, Organisations and Sectors

35. A list of all the main groups that would be most affected by the measures in this Impact Assessment (IA) is shown below:

- Victims and their families
- His Majesty's Courts and Tribunals Service (HMCTS)
- The Legal Aid Agency (LAA)
- His Majesty's Prison and Probation Service (HMPPS)
- The Prison Escort and Custody Service (PECS)
- The judiciary
- The Attorney General's Office (AGO)
- The Crown Prosecution Service (CPS)
- Legal services providers
- Private Prosecutors
- Offenders
- The Public

D. Descriptions of options considered

36. To meet the policy objectives, the following two options are considered in this IA:
- **Option 0:** Do Nothing
 - **Option 1:** Full Implementation in which all measures outlined are implemented.
37. Option 1 is the government's preferred option as it meets strategic and policy objectives. In what follows, more details are presented of the measures which are included in Option 1.

1 Non-attendance at Sentencing Hearings

38. The Government has committed to legislating to clarify court powers to require offenders to attend their sentencing hearings to face the consequences of their crimes and ensure that the authority of the court and the full administration of justice is seen. The legislative changes which comprise Measure 1 are also a direct response to victim and public concerns and supports the principle that justice must be seen to be done.
39. The legislation aims to clarify the law in this area. Under Measure 1A Crown Court judges will have an express statutory power to order the attendance of offenders at their sentencing hearing, and sanction those who refuse to comply with that order, with up to two years imprisonment. The measure will also make it clear that reasonable force can be used to ensure an offender's attendance. Trained prison or PECS staff will determine whether to use reasonable force to ensure an offender's attendance, when necessary and proportionate to do so. This reflects existing operational practice.
40. In cases where the offender has indicated an intention not to attend, judges will make a decision over how best to proceed. This ensures that judges retain discretion regarding whether to order an offender to attend their sentencing hearing.
41. Recognising the serious distress caused to many victims and their families by offenders refusing to attend their sentencing hearings, the need for the full administration of justice to be seen by victims, their families and the wider public and upholding the authority of the courts, this measure will also give Crown Court judges the power, following an attendance order, to impose prison sanctions for: (a) those found in contempt of court for failing to attend court for their sentencing hearing, without reasonable excuse; and (b) those who attend following an attendance order, but then commit a contempt by interrupting the hearing (or otherwise misbehaving) and are removed from the hearing as a result. These measures are intended to be deterrent as well as a punishment. These sanctions will be able to be imposed in addition to or instead of any custodial penalty. The regulations will confer a governor discretion, which is intended to permit the governor to override the order where it is considered necessary (for example, on health and safety grounds).

5 Crown Prosecutors

42. Under this measure, S1(3) and 5(1) of the Prosecution of Offences Act 1985 will be amended to remove the legislative barrier that currently requires Crown Prosecutors and those who conduct prosecutions on behalf of the CPS to possess a "general qualification".
43. The legislative safeguards provided under the Legal Services Act 2007 will continue to ensure that all Crown Prosecutors undertaking reserved legal activities are appropriately qualified. This change will not affect the reality that Crown Prosecutors will need to have rights of audience to fulfil their function of appearing in court to prosecute offences.

6 Private Prosecutors

44. Measure 6 will legislate for the Lord Chancellor to set, via Regulations, the rates at which private prosecutors can recover their expenses from Central Funds, by amending the POA 1985. The Ministry of Justice will then consult on the levels of hourly rates and lay secondary legislation to bring them into force.
45. Setting these rates will deliver on the JSC 2020 recommendation and will allow rates to be set to reduce the disparity between private prosecution cases and legally aided cases.

7 Unduly Lenient Sentencing

46. Measure 7 will amend the time limit, in paragraph 1 of Schedule 3 to the Criminal Justice Act 1988, in a way which guarantees that the Attorney General and Solicitor General have at least 14 days to consider a sentence once a request to review the sentence is received.
47. Under this measure, the 14-day extended 'grace period' will begin to run when a valid request is received by the AGO to review a sentence in the last 14 days of the 28-day time limit. As far as victims and other applicants are concerned, the time limit for getting an application to the Attorney General will still be 28 days from the date of sentence. That time-limit will remain unchanged.

8 Magistrates' Court Sentencing Powers

48. Measure 8 will amend legislation in relation to six specific triable either-way offences so that the magistrates' court maximum penalty is specified as being "the general limit in the magistrates' court", rather than "6 months" as is currently stated in legislation for those offences. These six offences are:
 - i. Section 1(6)(a) of the Prevention of Social Housing Fraud Act 2013 (unlawful sub-letting of secure tenancies)
 - ii. Section 2(7)(a) of the Prevention of Social Housing Fraud Act 2013 (unlawful sub-letting of assured tenancies or secure contracts)
 - iii. Section 30(3)(b) of the Modern Slavery Act 2015 (breach of various orders or requirements under this Act)
 - iv. Section 339(2)(a) of the Sentencing Act 2020 (breach of a criminal behaviour order)
 - v. Section 354(4)(a) of the Sentencing Act 2020 (breach of a sexual harm prevention order)
 - vi. Section 363(2)(a) of the Sentencing Act 2020 (breach of a restraining order)

E. Cost & Benefit Analysis

49. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
50. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the proposals under consideration. IAs place a strong focus on the monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. These might be impacts on certain groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.
51. The costs and benefits of each option are compared to option 0, the counterfactual or "do nothing" scenario, where fees are maintained at their current levels. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).
52. The impacts shown in this IA have been estimated on the following basis:
 - Price base year of 2024/25
 - 10-year appraisal period beginning in 2025/26

- Discounting base year of 2025/26
- Optimism bias of 20% has been applied to all monetised costs, and a 20% optimism bias decrease applied to the monetised benefits in measure 2.

53. As is the case with all MoJ IAs, we do not consider the direct impacts of the measures on offenders where these are considered necessary for upholding the sentence of the court.

Measure 1: Non-attendance at Sentencing Hearings

Method

54. Internal HMCTS Management Information (MI) was extracted from the Crown Court case management systems Xhibit and Common Platform for those remanded to custody who were recorded as absent for sentencing.
55. This was the best data available centrally on non-attendance at sentencing hearings to inform this impact assessment. However, there are key limitations to note:
- This data is internal MI and therefore has not been subject to the same level of checks as published data.
 - Although care is taken when processing and analysing the data, the details are subject to inaccuracies inherent in any large-scale case management system and there are therefore inevitable limitations to this data.
56. The figures are those for 2024. Data are taken from a live management information system and can change over time:
- The data relates only to defendants remanded in custody and who have been recorded as absent.
 - Data has not been cross-referenced with case files. Figures will include defendants who were unable to attend, for example those who were sick.
57. Statistics on sentencing at the Crown Court are derived from Xhibit and Common Platform data. As Official Statistics, these data have gone through a range of quality checks, however, they are still subject to inaccuracies inherent in any large-scale case management system.
58. Statistics on the average proportion of a sentence served in custody are derived from the published Offender Management Statistics Quarterly: October to December 2024 data. These statistics are extracted from the internal Prison NOMIS database. Similarly, as Official Statistics, these data have undergone a variety of checks but remain subject to the inaccuracies of a large-scale case management system. Moreover, this publication contains the most recent data available. However, the full impact of other measures on sentences over 5 years will not have been felt in this dataset – a factor which we consider in sensitivity testing.
59. The prison place impact of this measure arises from the additional time that offenders spend in prison due to judges making use of the new statutory power. This impact is sensitive to two variables: the proportion of non-attendees that we expect to receive a custodial penalty for not attending their sentencing hearing and the average custodial penalty that we expect judges to impose. The former variable adjusts for our expectation that judges may use non-

custodial penalties as well as the cases where the non-attendance has a legitimate justification.

60. We conceptually distinguish between five cohorts of offenders which we expect to be treated differently by judges. These cohorts consist of offenders serving:

- Non-custodial sentences (Suspended Sentence Orders, Community Orders, Hospital orders etc.)
- Shorter sentences (less than 4 years)
- Mid-length sentences (between 4 and 13 years)
- Long sentences (13 years and longer)
- Whole life imprisonment Orders

61. Any additional time in custody will be served at the end of an offender's existing sentence. As such, the timing of the prison impact depends on when offenders are expected to have been released from custody without the penalty. This factor is determined by the proportion of any offender's sentence that we expect them to serve in custody prior to their NASH penalty.

Costs of Measure 1

Monetised costs

HMPPS and Prison Escort and Custody Service

62. Based on the assumptions set out in Table 2 (see section F below), the additional custodial punishments for non-attendance at sentencing hearings are estimated to require 5 additional adult prison places at steady state. Due to the range of sentence lengths given across the relevant offences, the impact will slowly increase, starting in the first year of implementation and reaching steady state around 12 years after implementation. After 12 years, there may be negligible further prison place impacts for those sentenced to longer or indeterminate sentences.

63. There will also be costs associated with the planned use of force involving multiple trained officers with full personal protective equipment (PPE). These costs are derived from a combination of HMPPS average salary data in 2023/24 inflated to 2024/25 prices and internal estimates of the number of incidents that already require and will go on to require the use of force. There is also the expectation that a small cost will need to be borne prior to implementation in order to train prison personnel on the implications of the policy.

64. The transition cost of this measure associated with the training of prison staff and constructing prison places is expected to be £3.4m. Additionally, the annual enforcement cost of this measure, associated with running the required prison places and the planned use of force is estimated to be £0.3m. The enforcement costs associated with the planned use of force involve multiple trained officers with full personal protective equipment (PPE).

HMCTS

65. It is assumed that an additional half sitting day is required per case, due to the extra sentencing hearing that may take place. This is estimated to cost HMCTS £0.3m per year.

LAA

66. Estimated LAA Crown Court costs per sitting day have been derived from published data from 2023/24. Since legal aid fees do not increase with inflation and no fee changes have occurred since this date, these values are taken as representative of 2025/26. This measure is expected to cost the LAA £0.5m per year.

Non-monetised costs

HMPPS - Prison Service

56. There is a risk that offenders spending longer in prison as a result of these measures may further compound prison capacity and overcrowding pressures (if there is not enough prison capacity), which may also reduce access to rehabilitative resources and potentially further increase the risks of prison instability, self-harm and violence.
57. If prisoners experience worsening mental health due to the sanctions, this could have staffing and operational impacts due prison safety concerns. However, governors will have discretion to override the orders where it is considered necessary for reasons of health and safety, greatly reducing this impact.

HMCTS

58. The additional hearing time required may have a knock-on effect for other cases by delaying their start. As the overall number of extra hearings is expected to be 129 per year, it has not been considered proportionate to attempt to quantify the impact of these knock-on effects.
59. If sanctions and sentencing extensions are successful in incentivising more prisoners to attend their sentencing hearings, this may increase transportation costs.
60. If the measure increases offender attendance at sentencing hearings, it will reduce the risk of cases being adjourned for another hearing and in turn save court administrative costs as it will allow the process to run more efficiently. However, there will be an increased cost to prisons in cases where offenders are brought to court by force.

Offenders and rehabilitation

61. A longer time in custody may strain familial and community links, could limit offender motivation for reengagement in rehabilitation, and ultimately increase the likelihood of reoffending.
62. Imposing sanctions could, via potential negative impacts on mental health, reduce the motivation of affected prisoners to engage in rehabilitation. Since mental health decline is linked to prolonged cellular confinement, this may lead to increased violence and self-harm among the affected individuals, which could have negative repercussions for others in the prison population. However, again, this impact would be reduced by giving governor discretion to override the order where it is considered necessary for reasons of health and safety.

CPS

63. As non-attendance at the sentencing hearing occurs during the court process, no impacts are expected for police or the CPS. As this measure does not affect release processes or supervision on release, no impacts are expected for the Parole Board or Probation.

Benefits of Measure 1

Monetised benefits

64. It has not been possible to identify any monetised benefits for this measure.

Non-monetised benefits

65. This measure supports the principle that justice must be seen to be done. It supports the needs of victims and their families by helping to ensure that offenders are present in court to hear their victim impact statements and face up to the consequences of their crimes. This should help to reduce the negative consequences of crime on victims and their families and increase public confidence in the criminal justice system. Furthermore, if offenders still refuse to attend their sentencing hearings, victims can take some solace in knowing that they can be punished and be subject to a prison sanction and/or spend longer in prison.

Summary: Measure 1

66. The 10-year NPV for Measure 1 is estimated to be -£12.8m. The NPV is negative as there are no monetised benefits. Since the selected appraisal period is 10-years and the steady state for this measure is not reached until Year 14 from implementation, there will be additional costs after the appraisal period elapses.

67. The above impacts are our 'best estimates'. Given the uncertainties about the impacts of this measure, Section F (below) subjects the main assumptions to sensitivity analysis.

Measure 5: Crown Prosecutors

Costs of Measure 5

68. There are no significant costs associated with this measure, neither monetised or non-monetised.

69. Any costs relating to this measure will be those relating to CILEX practitioners seeking to take on a specialist criminal litigation qualification (if this is not their area of expertise already), if they wish to seek employment as Crown Prosecutors within the CPS. It has been assumed that any such additional costs incurred by CILEX practitioners would be offset by the additional income from such employment in the CPS.

70. As the measure will not, of itself, lead to any increase in the number of CPs employed, there will be no impact on the costs to the CPS.

Benefits of Measure 5

Monetised benefits

71. There are no monetisable benefits associated with this measure.

Non-monetised benefits

72. Allowing the CPS the flexibility to recruit a more diverse cohort, will increase the pool of potential Crown Prosecutors which they can hire from.

73. This measure will also facilitate equal opportunity to work as Crown Prosecutors for legal professionals and provide greater parity of esteem, which will increase the attractiveness of non-traditional pathways as routes to the legal profession. The measure will also support a wider ambition to ensure that there are no unnecessary barriers preventing legal professionals, such as CILEX Practitioners, from progressing in their careers.
74. Enabling the CPS to consider a wider pool of lawyers for CP roles may help to deliver swifter justice for victims by widening the pool of CP candidates.

Measure 6 Private Prosecutors

Monetised benefits

75. Measure 6 is an enabling power, as such there are no direct costs or benefits associated with this option.

Non-monetised benefits

76. At the point of setting the rates moving forward, this power will reduce the inequities in the current system, to help ensure a fair balance in the amounts which may be paid in private prosecution cases and legally aided cases. This would also aid in mitigating against the incentive of a private prosecution case in the interest of commercial gain, rather than in the public interest.

Measure 7: Unduly Lenient Sentencing

Costs of Measure 7

Monetised Costs

77. It has not been possible to quantify any costs for this measure at this point due to the limited data available.

Non-monetised Costs

78. There is an extremely minor risk that this will result in more cases referred to the Attorney General's Office and subsequently to the Court of Appeal if this measure improves general awareness of the scheme. In this scenario we would expect an increase in court time needed to hear them and an increase in legal aid to cover the costs of representation by the offender at a hearing.

Benefits of Measure 7

Monetised benefits

79. It has not been possible to quantify any of the benefits that are expected from this measure.

Non-monetised Benefits

Victims and the Public

80. This measure should increase the confidence victims and their families, as well as the general public, have in the justice system and protection of the public.

The Attorney General's Office

81. The improved administration of the ULS scheme gives the AGO the ability to have a minimum of 14 days to consider every case.

Measure 8 Magistrates' Court Sentencing Powers (MSPs)

Method

82. Following the changes to the 'Allocation to the Crown Court Guidance and Good Practice' in February 2021, magistrates' courts should already be retaining cases for trial which are likely to carry sentences of up to eighteen months' imprisonment, subject to complexity. This measure will therefore primarily impact cases for the relevant six offences that would have previously been sent to the Crown Court for sentence but which can now be retained in the magistrates' courts due to the maximum penalty being specified as "the general limit in the magistrates' courts", rather than "6 months".
83. Therefore, bringing these six offences in line with the magistrates' court maximum of 12 months' imprisonment for a single triable either-way offence is likely to only result in an extra 350 cases being retained in the magistrates' courts for sentencing per year. The impacts of this are expected to be minimal.
84. Sensitivity analysis for the monetised costs and benefits associated with this measure can be found in section F.

Costs of Measure 8

Monetised Costs

HMCTS

85. The number of defendants sentenced in the magistrates' courts is expected to rise, resulting in a cost to HMCTS. The 350 sentences that are expected to be diverted per year are expected to have an impact of 83 sitting days on the magistrates' courts, equivalent to an opportunity cost of £67k per year. This assumes that a sentencing hearing takes an equivalent amount of time in the magistrates' court as it would in the Crown Court.

Legal Aid Agency

86. The 83 additional sitting days in the magistrates' court are estimated to result in an additional cost of £0.1m to the LAA.

Benefits of Measure 8

Monetised Benefits

HMCTS

87. Moving cases to the magistrates' court will free up Crown Court capacity. This spare capacity will produce a non-cashable benefit and will be utilised to reduce the backlog.

88. The estimated benefit is equivalent to 350 committals for sentencing being diverted to the magistrates' court are equivalent to c.83 Crown Court sitting days per annum and a non-cashable benefit of £0.2m.

LAA

89. Similarly to HMCTS, the LAA will realise benefits as relevant cases are diverted from the Crown Court to the magistrates' courts, where costs are lower. We estimate that 350 committals for sentence will be retained per year.
90. The total number of 'committal for sentence' disposals in 2023 was 329,772, of which 172,483 were funded by the LAA, representing 52% of the total. Applying this percentage to the 350 cases suggest 183 would be funded by the LAA.
91. Under this measure, some defendants would no longer need to be committed for sentence, resulting in a saving in legal aid spend in the Crown Court. As the average legal aid claim value per 'committal for sentence' is £660, the cost saving is estimated to be £0.1m. Similarly to HMCTS, this is not considered cashable as resource will be diverted to cases which are currently in the Crown Court backlog.

Non-monetised Benefits

CPS

92. As a greater number of defendants are expected to be sentenced in the magistrates' courts, where cases are relatively less expensive to complete, rather than the Crown Court, there will be a saving for the CPS. It has not been possible to monetise these due to lack of information on CPS unit costs.

Victims, Defendants, and the Public

93. Since a greater proportion of TEW cases are expected to be sentenced in the magistrates' courts, this will free up Crown Court time to handle more serious offences.
94. Increasing MSPs means that more cases will be retained in the magistrates' courts for sentencing. As magistrates' courts hear cases more quickly than in the Crown Court, waiting times for sentencing will be reduced. This will be beneficial for victims in two ways:
- a) this will bring waiting times down and ensure that victims have the swift access to justice they deserve.
 - b) as sentencing hearings will be heard more quickly, it is likely that the risks of defendants reoffending while awaiting sentence will also be reduced.
95. This will also have the wider benefit of improving public confidence in the justice system.

Summary: Measure 8

96. The 10-year NPV for Measure 8 is estimated to be **£1.4m**.

F. Assumptions, Risks and Sensitivity Analysis

Assumptions and Risks

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

Table 2: Main assumptions, risks and uncertainties

Assumptions	Risks/Uncertainties
1 Non-attendance at Sentencing Hearings	
<p>Additional prison space will be required and the construction cost of each prison place will fall in the year before it is needed.</p> <p>The construction cost of an additional prison place is £600,000 in 2025/26 prices. The prison building costs are inflated with data from the Building Cost Information Service.</p> <p>The average annual cost of running a prison place is £56,000 (2025/26) prices.</p>	<p>Adult prison place construction costs are based on averages and deflated to 2024/25 prices. It is not possible to allocate precise prison places and costs for each additional place at this point.</p>
<p>We have used the National Tactical Response Group (NTRG) running costs and incidents per year to estimate a unit cost of a response to a serious incident in prisons that require a full PPE response of multiple trained officers.</p> <p>We assume that, in our best estimate, force will need to be used in 5% more cases than at present as a result of this measure.</p>	<p>The unit cost estimate is based on the latest NTRG assumptions. However, NTRG running costs and incidents per year may vary year on year, impacting the unit cost. Therefore, any variation in these assumptions will impact the estimates in this IA.</p> <p>In our high and low scenarios, we assume that force will need to be used in 10% and 0% more cases than at present respectively.</p>
<p>Internal HMCTS MI for 2024 has been used to inform assumptions on the prevalence of non-attendance at sentencing hearings for the relevant offences.</p> <p>We have assumed that the prevalence of non-attendance for the relevant offences will remain constant in future years.</p> <p>The prevalence of non-attendance in the youth estate is unknown but is not considered to be a significant issue.</p>	<p>Due to limitation of the HMCTS MI data, these assumptions are highly uncertain.</p> <p>It is difficult to predict non-attendance which is a personal decision by the offender. It is likewise difficult to predict future changes in the types of offences which offenders who do not attend their sentencing hearings will commit and for which they will be sentenced at courts.</p> <p>If there are significant changes in the rate of non-attendance and the offences which the non-attending offenders have committed, this will affect the estimates in this IA.</p>
<p>We assume that judges will apply different penalties depending on the sentence being served by the offender.</p> <p>Offenders handed non-custodial sentences are assumed to receive non-custodial penalties for non-attendance. Offenders handed whole life imprisonment orders are assumed to receive prison penalties rather than custodial penalties for non-attendance.</p> <p>Similarly, custodial penalties will not be applied in all cases where an offender does not attend their sentencing hearing. We expect that some proportion of non-attendances receiving</p>	<p>Sentencing is a matter for the independent courts based on all the circumstances of a case.</p> <p>These assumptions are therefore highly uncertain as they are dependent on court behaviour, the circumstances of future individual cases, and the unknown proportion of non-attendances with a justifiable reason.</p> <p>In the high impact scenario, we assume that offenders serving sentences of less than 4 years will receive penalties of 4 weeks in 25% of cases, offenders serving sentences of between 4 and 13 years will receive a custodial sentence in 50% of cases, and offenders serving 13 or more years</p>

<p>determinate sentences will either be for valid reasons or receive non-custodial penalties. Offenders handed sentences of immediate custody less than 4 years are expected to receive 2 weeks in 12.5% of cases in our best estimate scenario. Offenders handed sentences of immediate custody between 4 and less than 13 years are expected to receive between 1- and 6-months custody depending on the sentence length of their index offence. This penalty will apply in 37.5% of cases. Offenders handed sentences of immediate custody of 13 or more years are expected to receive 9-months of additional custody in 62.5% of cases in the best estimate scenario.</p>	<p>will receive penalties of 12 months in 75% of cases.</p> <p>In the low impact scenario, we assume that offenders serving sentences of less than 4 years will receive penalties of 2 weeks in 0% of cases, offenders serving sentences of between 4 and 13 years will receive a custodial sentence in 25% of cases, and offenders serving 13 or more years will receive penalties of 6 months in 50% of cases.</p>
<p>It is assumed that offenders will serve an average percent of their sentence in custody depending on the sentence-length cohort to which they belong. This assumption is based on published data which are assumed to be representative of future years.</p>	<p>The actual proportion of a sentence that is served in custody is set by a range of factors which cannot be analytically predicted in advance. If the true proportion varies in future years from its October to December 2024 value, then the timing of this measure's prison impact will also vary. This assumption is particularly sensitive to any future policy changes to the way in which a sentence is served.</p> <p>Recent changes to the custody system make the published values a slight overestimate. We sensitivity test this assumption by using the published statistics in the low scenario for the costs of the policy. The best estimate scenario assumes that the true proportion of a sentence served in custody is 95% of the published statistics. The high scenario for the costs of the policy assumes that the true value is 90% of the published statistics.</p>
<p>As this measure relates to non-attendance at the sentencing hearing, no impact is expected for police or CPS. No impact is expected for the Parole Board as this sanction does not affect release processes.</p> <p>It is assumed that an additional hearing may be needed to consider and sentence non-attendance. It is assumed that half a day per 'non-attendance at sentencing hearing' case will be needed at a cost of £2,287.</p> <p>For LAA, it is assumed that there will be additional costs, based on cases requiring an additional half sitting day at the Crown Court.</p> <p>Estimated LAA Crown Court costs per sitting day (£6,900) have been derived from published data from 2023/24. Since legal aid fees do not increase with inflation, this cost is assumed to be representative of 2025/26. LAA cost estimates are based on legal aid expenditure at the crown court and the number of crown court sitting days in a year.</p>	<p>Any impacts that differ from these assumptions may affect the cost of this measure.</p> <p>Crown Court and Legal Aid costs are taken from the average cost of using a day of either resource. If the specific costs involved in this policy are significantly different from these averages, the final costs of the policy will vary. Moreover, if the amount of court and legal aid resources involved in handling a non-attendance case significantly differs from our assumed half a sitting day, then the final costs of the policy will also differ from our estimates.</p>

It is assumed that this measure will be implemented in Autumn of 2026/27 and that PECs training will receive funding the same year.	Any delays in the implementation of this measure or in the funding of PECs will lead to delays in the measure's impact.
Measures 5 and 6	
Crown Prosecutors	There are no significant assumptions or risks associated with the measure in this IA.
Private Prosecutors	There are no significant assumptions or risks associated with the measure in this IA.
Measure 7 Unduly Lenient Sentencing	
It is assumed that this measure will result in no additional cases as this is an administrative measure allowing more time for the AGO to fully consider a case, even when the request is received close to expiry of the 28-day period.	There is an extremely minor risk that this will result in more cases if this measure improves general awareness of the scheme. In this scenario we would expect an increase court time needed to hear them and an increase in legal aid to cover the costs of representation by the offender at a hearing. Alongside this, we would expect, on average, an increase in sentence lengths for the additional cases resulting in inflationary prison place impacts, however this would still be dependent on judicial discretion. In this highly unlikely scenario, there would be considerable costs to build more prison places.
Measure 8 Magistrates' Court Sentencing Powers	
No additional cost to prisons & probation have been assumed as sentences are simply brought forward. Despite the fact there is a small increase in prison places in the short term, the steady state impact is zero so no additional places would be built.	<p>If this assumption were to change, HMPPS would face costs associated with building and running prisons. For further sensitivity analysis on the prison impacts of increasing Magistrates' Sentencing Powers, please see the MSP12 Impact Assessment.</p> <p>There is a short-term risk that prisons will not be able to absorb the custodial sentences as defendants who receive custodial sentences enter prison sooner, and that the Probation Service will not be able to absorb the probation caseload as sentences are brought forward.</p>
Sentencing hearings are assumed to take the same amount of time in magistrates' courts as in Crown Courts.	<p>There is no timeliness data regarding magistrates' courts trials, however there is no evidence to suggest this assumption is not valid.</p> <p>If sentencing hearings in magistrates' courts differ in length of time, the costs and benefits associated with diverting these hearings would change.</p>
Sentences given by magistrates will be the same as those which would have been given by Crown Court Judges. There is no robust evidence to suggest otherwise.	There is a risk that magistrates' courts could sentence more harshly for the same offence. This is because the cases affected by Option 1 will be the most serious the magistrates' courts see, therefore magistrates and District Judges may seek to sentence at the top of their powers. Conversely, these cases would be the least serious in the Crown Court, therefore the comparative sentences imposed there may be lower. Were this risk to materialise, there would be a downstream impact on prisons.

Sensitivity Analysis

1 Non-attendance at Sentencing Hearings

98. Sensitivity Analysis was used to illustrate how cost estimates for the sanctioning of non-attendances at sentencing hearings may vary if we alter:
- 1) the presumed penalty imposed by judges for non-attendance,
 - 2) the proportion of recorded non-attendance cases where this penalty is applied,
 - 3) the proportion of a sentence that is served in custody, and
 - 4) the frequency with which we expect force to be used as a result of this policy.
99. We outline three scenarios: Low impact, best estimate, and High impact, details of which can be found in the table above. The costings and prison place impacts of the policy under the different scenarios can be found in Table 3:

Table 3: Measure 1 Sensitivity Analysis

	Low Assumption	Best Estimate	High Assumption
Annual Prison Impact	3	5	8
NPV	-£9.4 million	-£12.8 million	-£17.1 million
Average Annual Prison Enforcement Costs	£0K	£190K	£380K
Average Annual Costs of Running Prison Places	£70K	£130K	£220K
Average Annual LAA and Crown Court Costs	£790K	£790K	£790K
Transition Costs	£2.1M	£3.4M	£5.5M
Year from Implementation when Steady State is Reached	Year 11	Year 12	Year 12

100. The effect of judges applying a harsher custodial non-attendance penalty in a greater proportion of cases would be to increase the annual prison impact by around 3 places. This increase would raise the annual cost to HMPPS of running prison places from £130K to £220K. This increase would also raise the transition cost of the measure from £3.4M to £5.5M. These higher transition costs arise entirely from the need to construct more prison places.
101. The annual enforcement costs of this policy to the PEC service are also sensitive to the assumed proportion of cases in which force would need to be used to require attendance. If force is used in 10% more cases of non-attendance than it is currently, rather than in 5% more cases, the annual cost of using force increases from £190K to £380K.
102. Overall, in the high scenarios, the NPV of Measure 1 would decrease from -£12.8 million to -£17.1 million.

8 Magistrates' Court Sentencing Powers

103. Sensitivity analysis was carried out assuming +/-15% of sentences diverted to reflect the uncertainty in our analysis. The results can be seen in Table 4 below.

Table 4: Measure 8 Sensitivity Analysis

	Low Assumption	Best Estimate	High Assumption
Number of sentences diverted	300	350	400
Average annual Costs	£140K	£160K	£190K
Average annual benefits	£270K	£320K	£370K
NPV	£1.2m	£1.4m	£1.6m

G. Wider Impacts

Public Sector Equality Duty

104. An Equalities Impact Assessment has been carried out in addition to this IA.

Better Regulation

105. These proposals are out of scope of the Government's Better Regulation Framework.

Environmental Impact Assessment

106. The legislative measures in this OIA are not expected to have any environmental impact other than that associated with building additional prison capacity.

Economic Growth

107. The measures in this IA are not expected to have a direct impact on UK economic growth. However, they will help maintain the rule of law which is a key contributor to growth.

H. Monitoring & Evaluation

108. We have no plans to formally evaluate these provisions, but these policies will be kept under review.