

Title: Courts Bill (Non IRCC) IA No: MoJ036/2025 RPC Reference No: N/A Lead department or agency: MoJ Other departments or agencies:	Impact Assessment (IA)			
	Date:			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: Lily.Sullivan@justice.gov.uk				
Summary: Intervention and Options			RPC Opinion: N/A	

Cost of Preferred (or more likely) Option (in 2025/26 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
N/A	N/A	N/A	Not a regulatory provision

What is the problem under consideration? Why is government action or intervention necessary?
The courts system in England and Wales faces a range of structural and operational challenges that risk undermining the delivery of justice and public confidence in the justice system. These challenges include outdated legislative frameworks, inefficient court processes, and gaps in protections for vulnerable parties. Without government intervention via the measures in the Courts Bill, there would be consequences for the courts and wider justice system such as:

- Evidential rules in sexual offence trials will remain inconsistently applied, enabling unfair use of evidence and reliance on harmful rape myths and misconceptions, while uncertainty around special measures will leave victims with uneven access and practitioners with ongoing ambiguity.
- Risk of unsafe decision making in family courts, as a pro-contact culture remains unchallenged, exposing children to harm in domestic abuse cases.
- Confusion and administrative burdens will arise when new court facilities open, requiring complex workarounds under the current statutory framework.
- Inability to introduce new expense categories for magistrates will deter recruitment and retention, especially among younger and diverse candidates, leaving volunteers out of pocket.

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

- Strengthen fairness and transparency by clarifying evidential rules in sexual offence trials and special measures for vulnerable witnesses.
- Improving decision-making processes in the family court by repealing the presumption of parental involvement.
- Enhance judicial governance through reforms to leadership structures.
- Increase efficiency and flexibility by reforming expenses to support recruitment and diversity.
- Maintain public confidence in the justice system by ensuring courts operate effectively and uphold the rule of law.

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

- Option 0:** Do Nothing. Make no changes to existing legislation. Under this option, the current issues, as set out in the annex, will continue.
- Option 1:** Implement the Courts Bill.

The Government's preferred option is Option 1 because it best meets the policy objectives.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: In development (TBC)						
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:
SELECT SIGNATORY:


Date: 24/02/2026

Summary: Analysis & Evidence Policy Option 1

Description: Implement the Courts Bill

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	-	-	-
High	-	-	-	-
Best Estimate	-	-	-	-

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

There are no anticipated monetised costs associated with the measures put forward.

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

Other government departments mainly face administrative and operational costs that have not been monetised. These include updating guidance and training (Home Office, AGO, CPS), and minor coordination or resource impacts for organisations associated with the family courts. Overall, these are expected to be low-level familiarisation and compliance costs rather than significant financial burdens.

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

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

There are no anticipated monetised benefits associated with the measures put forward.

Other key non-monetised benefits by 'main affected groups' 0

The measures covered in this IA deliver non-monetised benefits for victims and witnesses through clearer evidential rules and special measures, improving confidence and testimony quality. Revised decision-making processes in the family courts should improve confidence in the family justice system and help create more secure outcomes for children and families, while judicial and governance reforms enhance security and leadership cohesion.

Key assumptions/sensitivities/risks

Discount rate (%)

-

No significant additional resource or capital investment is anticipated. Case volumes and listing capacity are assumed to remain broadly stable.

BUSINESS ASSESSMENT (Option 1)

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

Evidence Base

A. Background

1. This Impact Assessment (IA) assesses the following legislative non-IRCC measures which are submitted as part of the Courts Bill.

Table 1: Summary of Courts Bill Measures	
Measure	Description
1a: Admissibility of evidence and special measures in Sexual Offence Prosecutions	<p>This measure will amend relevant legislation to:</p> <ul style="list-style-type: none"> • Create clear statutory thresholds so that evidence relating to previous allegations, compensation claims, and sexual behaviour are only admitted to court when they are relevant and necessary evidence, and not with the sole purpose of undermining the victim. • Recognise that offences of any type which amount to domestic abuse can demonstrate a propensity to commit offences in the domestic abuse context. • Introduce a statutory definition to clarify the scope of a witness’s evidence for the purposes of special measures to include the reading of a Victim Personal Statement. • Amend section 28 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA 1999) to make it clear that the court has authority to order all or part of a video recording of the witness’s evidence. • Amend section 23 YJCEA 1999 to introduce a statutory power to enable the witness to be screened from the defendant, rather than only screening the defendant from the witness, to reflect current courtroom practice. • Amend section 25 YJCEA 1999 to permit additional categories of individuals to remain in the courtroom when a direction under that section is made. • Create a statutory special measure allowing a witness to be accompanied by a companion while giving evidence.
1b: Repealing the presumption of parental involvement	<p>This measure will repeal the presumption of parental involvement from the Children Act 1989 which, in its current form, states that, unless there is evidence to the contrary, the court must presume that the involvement of a parent (who can be involved without risk of harm) will further the child’s welfare.</p>
1c: Reform to the office of Senior President of Tribunals	<p>This measure will replace the current office of Senior President of Tribunals (SPT) with a new office under the Lady Chief Justice (LCJ), alongside the Heads of Division. It is intended that the new office of SPT will exercise leadership functions delegated from the LCJ with respect to tribunals operating in England and Wales and the judges and non-legal members working in them; the new office will continue to exercise independent leadership functions with respect to tribunals operating in Scotland and Northern Ireland.</p>
1d: Central Criminal Court	<p>This measure will amend section 8(3) of the Senior Courts Act 1981 so that the designation “Central Criminal Court” applies only to the Old Bailey and not to any other Crown Court site within the City of London (such as the new City of London Law Courts). It also</p>

	preserves the existing entitlements of the Lord Mayor and Aldermen of the City of London to sit as judges of the Central Criminal Court, which continues to be exercisable to the same extent when the Crown Court sits at other premises in the City of London.
1e: Reforming Magistrates Expenses	This measure removes the existing statutory allowance categories and replaces them with a delegated power, enabling the Lord Chancellor to make regulations providing for payments to magistrates in respect of expenditure, or financial loss, incurred in connection with the performance of their duties.

The Court System in England and Wales

2. The courts system in England and Wales faces a range of structural and operational challenges that risk undermining the delivery of justice and public confidence in the justice system. These challenges include outdated legislative frameworks, inefficient court processes, and gaps in the protections for vulnerable parties. Without reform, these issues will continue to impede the effective administration of justice, increase costs, and erode trust in the system.
3. Several factors have driven the need for the legislative interventions covered in this IA:
 - **Complexity and inconsistency in evidential rules:** Current provisions governing the admissibility of evidence in sexual offence trials are fragmented and inconsistently applied. This creates uncertainty for practitioners and risks unfair outcomes for victims and defendants. Similarly, the framework for the use of special measures lacks clarity, limiting access to protections that support vulnerable witnesses.
 - **Family court concerns:** The presumption of parental involvement in the Children Act 1989 has been criticised for reinforcing a pro-contact culture that may compromise child safety in cases involving domestic abuse. A recent government review of the courts' application of the presumption highlighted systemic issues that, alongside other reforms, require legislative change to ensure decisions are focused on individual child welfare.
 - **Judicial governance:** The current statutory structure of the role of Senior President of Tribunals limits progress towards a unified judiciary. Reform is needed to strengthen leadership, support increased flexible deployment and benefit judicial morale, and recruitment.
 - **Operational pressures in magistrates' courts:** Current legislation restricts flexibility in managing expenses.
4. The Courts Bill will address these issues through a package of measures designed to modernise court processes, strengthen protections for vulnerable parties, improve governance, and enhance efficiency across the justice system. These reforms aim to uphold the rule of law, maintain public confidence, and ensure that courts operate effectively in a modern context.
5. This IA is one of two being submitted in support of the Courts Bill. This IA focuses on a diverse range of efficiency, operational, and procedural measures. The other IA addresses the measures associated with Part 1 of the Independent Review of the Criminal Courts

(IRCC) conducted by Sir Brian Leveson. Therefore, when this IA refers to the Courts Bill, it is referring exclusively to the measures covered within this document.

Problems under consideration

Admissibility of evidence and Special Measures in Sexual Offence Prosecutions

6. In July 2025, the Law Commission published its report on the use of evidence in sexual offence prosecutions¹. This report explored ways to improve the understanding of consent and sexual harm, improve treatment of complainants, and ensure that defendants receive a fair trial. The report particularly aimed to address the risk that myths and misconceptions about sexual violence permeate the trial process and influence jurors' deliberations.
7. After considering the recommendations made, the Government is taking nine measures forward as part of the Courts Bill. The measures falling under two categories: admissibility of evidence and special measures.
8. The Bill measures relating to the admissibility of evidence (evidence that may be presented to the jury during the trial) will address the following issues:
 - Evidence relating to a victim's previous allegations of a sexual offence is often admitted with the aim of undermining the credibility of the victim, without an evidential basis. The new threshold will ensure evidence is only admitted when it is truly relevant.
 - Victims of any violent crime can apply for compensation – usually through the Criminal Injuries Compensation Scheme. However, evidence relating to a sexual offence victim's compensation claim is often raised in court with the aim of undermining the credibility of the victim. Raising the admissibility threshold will ensure this evidence can only be admitted when it has substantial probative value to an important issue in the case.
 - Currently, a victim's sexual behaviour evidence (SBE) is being admitted inconsistently in sexual offence trials and without the required scrutiny because the current legislation is all at once too restrictive, too broad and too complicated. The Bill will update s.41 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA 1999) to introduce a new, clearer threshold will mean that evidence is admitted more consistently, and only when truly relevant. The new threshold will also be expanded to apply in trials for all offence types.
 - Currently, provisions for defendant bad character evidence provide that previous offences of the same category, as provided for in secondary legislation, may demonstrate propensity and may therefore be admissible as bad character evidence. However, many different categories of offences can amount to domestic abuse, and this is currently not recognised by the legislation. The Courts Bill will amend the law to clarify that previous offending in the domestic abuse context can demonstrate the propensity to commit offences of this kind, if the defendant is charged with another offence amounting to domestic abuse – regardless of what the individual offence is.
9. The Bill measures relating to special measures – a series of adjustments to court procedure within the YJCEA 1999, such as screens and live links, which are designed to help vulnerable and intimidated victims and witnesses to give their best evidence – will address the following issues:

¹ [Law Commission Documents Template](#)

- Although victims may currently use special measures when reading their Victim Personal Statement (VPS), this practice is not explicitly provided for in legislation. As a result, there is a risk that witnesses may not always be able to access special measures when reading their VPS, potentially undermining their ability to participate effectively in the sentencing hearing process.
- The Criminal Practice Directions (CPD) and Criminal Procedure Rules (CrimPR) provide for the court's ability to order edits to pre-recorded evidence given under section 28 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA 1999), such as removing inadmissible or irrelevant material from recordings. However, this power is not explicitly conferred by the primary legislation itself. The absence of a clear statutory basis risks creating uncertainty about the scope of judicial authority to order edits to such evidence.
- Section 23 YJCEA 1999 allows for screens to prevent a witness from seeing the defendant. However, it does not expressly state that the defendant must be unable to see the witness - though this is usually the practical effect. This lack of clarity can lead to confusion for witnesses about what to expect when giving evidence when using screens. Additionally, while special measures can be used in combination, there is inconsistent practice around the use of screens alongside other measures. This means when intimidated witnesses give evidence via live link or pre-recorded video, the fact that the defendant can still see them may affect the quality of their evidence or discourage them from giving it altogether.
- Section 25 YJCEA 1999, known as 'evidence in private', provides for the exclusion of the public from the courtroom while a complainant gives evidence. In practice, this measure is rarely applied for or granted. Judicial concerns about its implications for open justice, particularly the limitation that only one accredited journalist may remain in the public gallery, have contributed to its limited use. Prosecutors may also be hesitant to apply for this measure due to similar considerations.
- Section 24 of the YJCEA 1999 permits witnesses to be accompanied by a supporter when giving evidence via live link, and courts often use their inherent powers to allow supporters when giving evidence via other means. However, practice remains inconsistent. While the Criminal Procedure Rules establish a presumed entitlement for witnesses to be accompanied by an Independent Domestic Violence Advisor (IDVA) or Independent Sexual Violence Advisor (ISVA) if they apply for this, stakeholder feedback suggests this support is not always offered in practice.

Repealing the presumption of parental involvement

10. Under section 1(2A) of the Children Act 1989, when making certain decisions about a child's upbringing (such as who they will live or otherwise spend time with) the family courts currently presume that a parent's involvement furthers a child's welfare unless the contrary is shown. Although the presumption does not apply where a parent poses a risk of harm, it has been criticised for reinforcing a "pro-contact" culture that may prioritise parental involvement over child safety.
11. A recent government review of courts' application of the presumption of parental involvement ([Presumption of parental involvement review - GOV.UK](#)) found that family court decision-making was driven by general assumptions about child welfare being furthered by the involvement of a parent, meaning that an individualised focus on the specific child's welfare could be lost. This "no stone unturned" approach to maintaining contact resulted in

the most likely outcome for child arrangement cases being direct contact with both parents, even in cases involving domestic abuse. In cases of domestic abuse and other harm such contact can expose children to harm with serious consequences, including mental health impacts and, in extreme cases, homicide. While the presumption was not the sole factor leading to such arrangements, the review found that court culture, case law, and legislation came together to create a system that promoted parental involvement, sometimes at the expense of risk.

12. As a result, the government announced on 22 October 2025 that it will repeal the presumption of parental involvement in the Children Act 1989 when parliamentary time allows. Repealing the presumption forms part of a wider reform programme to better centre children's voices and improve responses to domestic abuse in family courts. Although the repeal alone is unlikely to materially change outcomes—courts will continue to have the child's welfare as their paramount consideration and to apply the "welfare checklist" under section 1(3) Children Act 1989, as well as other provisions—it is expected that the repeal will change the process judges follow when making decisions about parental involvement. This change in process represents an important part of our attempts to better centre the safety of children in family court decisions.

Reform to the Office of Senior President of Tribunals

13. The office of Senior President of Tribunals (SPT) is a statutory judicial office established by the Tribunals, Courts and Enforcement Act 2007 (TCEA). The SPT exercises leadership in relation to the tribunals outlined in the TCEA, namely the First-tier tribunal, Upper tribunal, Employment tribunals and Employment Appeal Tribunal, while remaining distinct from the Lady Chief Justice's (LCJ) leadership of courts in England and Wales.
14. Since 2007, the senior judiciary across the courts and TCEA tribunals in England and Wales have taken forward a number of initiatives to bring the courts and tribunals closer together (the 'One Judiciary' programme) and shape a more cohesive, effective, efficient and modern justice system. The Government has worked closely with the senior judiciary in considering how best to achieve this, but the work is constrained by the existing statutory framework governing the SPT office.
15. In 2023, the previous Government consulted on abolishing the existing office of SPT, which sits outside the England and Wales judicial structure, and replacing it with a reconfigured office whereby the work of tribunals in England and Wales would be brought under the leadership of the Lady Chief Justice of England and Wales. The relevant tribunals in Scotland and Northern Ireland would continue to be led by the SPT. This would integrate tribunal judges in England and Wales into the same judicial structure as courts judges, while preserving the existing tribunal structure. The consultation received three responses which were largely supportive of the proposed changes, agreed that they were consistent with the stated objective of the One Judiciary programme and raised no concerns about the impact of reform on the functioning of the tribunals' judiciary.
16. This Courts Bill will therefore reform the office of SPT via primary legislation as part of its wider work with the judiciary. The primary rationale for reform is to support greater cohesion between the courts and tribunals by creating a unified leadership structure, facilitating cross-deployment and the diversification of judicial career pathways. It is also expected that this measure will benefit judicial morale and recruitment.

Central Criminal Courts

17. Section 8(3) of the Senior Courts Act 1981 provides:

When the Crown Court sits in the City of London it shall be known as the Central Criminal Court; and the Lord Mayor of the City and any Alderman of the City shall be entitled to sit as judges of the Central Criminal Court with any judge of the High Court, Circuit Judge, Recorder, qualifying judge advocate or District Judge (Magistrates' Court)."

18. The City of London Law Courts (CoLLC), part of the Salisbury Square development led by the City of London Corporation, is scheduled to open in 2027 and will include eight Crown Court courtrooms within the City of London. Without legislative change, this would mean two crown Court locations being referred to as the Central Criminal Court, creating potential confusion for operating processes such as listings, warrants, and custody transfers.

19. It is the government's intention to preserve the identity of the Old Bailey as the sole Central Criminal Court in England and Wales, and to maintain the existing sitting rights of the Lord Mayor and any Alderman of the City of London in any Crown Court site in the City.

Reforming Magistrates Expenses

20. The aim is to increase the numbers of magistrates in the next 2-3 years whilst retaining the current cadre of magistrates. It is understood that constraints with the expenses policy are both causing some magistrates to step down and potentially impacting willingness of other magistrates to apply (although this is difficult to evidence).

21. Magistrates' expenses are currently governed by Section 15 of the Courts Act 2003 and are limited to travel, subsistence, and financial loss. The government regularly reviews the Magistrates Expenses policy: the last review was in 2021 with a commitment to review again after five years, meaning that a further review is scheduled for 2026.

22. However, since the last review, the way magistrates work has changed significantly, with more duties carried out remotely as well as in person. These changes mean that increasingly magistrates incur costs which do not fit directly under the three categories described above. In turn, this can cause potential financial losses to magistrates.

23. The Magistrates Association's report *It Shouldn't Cost to Volunteer*,² based on a survey of around 1,400 magistrates, also highlighted dissatisfaction with the current expense system and recommended considering reimbursement for caring costs and expenses linked to remote working.

24. While the Courts Bill will not remove existing entitlements, it will move expenses from primary to secondary legislation and therefore introduce flexibility to cover additional costs through secondary legislation. However, as the specific changes are not yet defined, there is some uncertainty about the implications of future amendments.

B. Policy Rationale and Objectives

Rationale

² [MA-ar-itshouldntcosttovolunteer2022-1.pdf](#)

25. 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).
26. The rationale for the Courts Bill measures described in this IA relate to both efficiency and equity. The measures will put fairness, efficiency, and public confidence at the heart of the justice system by modernising outdated legislation and closing gaps that undermine effective court processes. They will also ensure that vulnerable parties are better protected, judicial governance is strengthened, and courts operate in a way that reflects modern needs and technology.

Policy Objectives

27. The overall policy objectives are to enable a managed approach to systemic challenges across civil, family, and criminal jurisdictions. The overall policy objectives of the Bill are to:
- Strengthen fairness and transparency by clarifying evidential rules in sexual offence trials and special measures for vulnerable witnesses.
 - Improve the decision-making process in the family courts by repealing the presumption of parental involvement.
 - Enhance judicial governance through reforms to leadership structures.
 - Increase efficiency and flexibility by reforming expenses to support recruitment and diversity.
 - Maintain public confidence in the justice system by ensuring courts operate effectively and uphold the rule of law.
28. There are also some more specific policy objectives associated with each of the Bill measures. These are described below.

Admissibility of evidence and special measures in Sexual Offence Prosecutions

29. The policy objectives associated with this measure are to:
- Prevent evidence being admitted to court which unfairly relies on so-called rape myths and misconceptions and has the sole aim of undermining the victim.
 - Strengthen the support measures victims can receive at court, so that they can give their best evidence safely.

Repealing the presumption of parental involvement

30. The policy objectives associated with this measure are to:
- Ensure that family court decision-making is focused on the individual child's welfare and family circumstances.

- Support other legislative and non-legislative changes ensuring children are better protected from harm, including harm arising from contact with abusive parents.

Reform to the Office of Senior President of Tribunals

31. The policy objectives associated with this measure are to:

- Integrate tribunal leadership in England and Wales under the leadership of the LCJ, creating a simpler unified judicial leadership model that supports flexible deployment between courts and tribunals and builds on continuing work to foster a shared culture across courts and tribunals judiciaries.
- Support the development and career progression of judicial officeholders. This will deliver greater cohesion between the courts and tribunals judiciaries, advance the objectives of the One Judiciary programme and support the morale and recruitment of the tribunals' judiciary.

Central Criminal Court

32. The policy objectives associated with this measure are to:

- Amend the statutory framework so that the Old Bailey remains the sole Central Criminal Court in England and Wales. The measure also makes clear that the existing entitlement of the Lord Mayor of the City of London and any Alderman of the City to sit as judges of the Central Criminal Court continues to be exercisable to the same extent when the Crown Court sits at other premises in the City of London.

Reforming Magistrates Expenses

33. The policy objectives associated with this measure are:

- Move magistrates' expense categories into regulations, rather than keeping them in primary legislation which will allow future changes to the regime to be made through secondary legislation.
- This is essential to support recruitment and retention, and the recruitment of a more diverse demographic - especially as recent reforms to the criminal courts system, announced in the response to the Independent Review of the Criminal Courts, aim to pass more work to magistrates which may require us to expand the magistracy significantly.

C. Affected Stakeholder Groups, Organisations and Sectors

34. A list of all main groups that would be affected by the measures described in this IA is shown below:

- **Government Departments and Agencies**
 - Ministry of Justice (including HMCTS, OPG, the Legal Aid Agency, Cafcass and Cafcass Cymru)

- Other Government Departments and agencies (Attorney General's Office, Home Office)
- Local authorities and charging authorities
- City of London Corporation
- **Judiciary and Associated Bodies**
 - Judges, magistrates, and tribunals judiciary
 - Judicial Office
 - Senior President of Tribunals and Lord/Lady Chief Justice
- **Legal Profession and Support Services**
 - Crown Prosecution Service (CPS)
 - Criminal barristers and the Bar
 - Family court legal professionals and professional bodies
 - Legal advice and support organisations
 - Professional advisers (ISVAs, IDVAs, Registered Intermediaries)
 - Court-based support services (e.g., Witness Service volunteers and staff)
- **Court Users and Individuals**
 - Victims, defendants, complainants, and witnesses (including those eligible for special measures)
 - Parents and children in private law proceedings
- **Law Enforcement and Oversight**
 - Police in England and Wales
- **Other Stakeholders**
 - Criminal Injuries Compensation Authority and similar bodies
 - Third sector and charity organisations (including those advising on LPAs)
 - Academics
 - The press
 - General public

D. Description of Options Considered

35. The following two options are considered in this IA:

- **Option 0 Do Nothing: make no changes to existing legislation**
- **Option 1: Legislate to introduce the measures in the Courts Bill**

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

Option 0: Do nothing

37. Under the Do-Nothing option, no changes would be made to existing legislation. Failure to act would perpetuate existing challenges, undermine fairness, and limit progress toward modernisation. Under this option, the problems set out earlier in this IA will remain.

Option 1

38. Option 1 involves introducing the following legislative measures under the Courts Bill:

Measure 1a: Admissibility of evidence and Special Measures in Sexual Offence Prosecutions

39. Measure 1a of the Courts Bill will create a clearer and more effective admissibility threshold, so that evidence relating to a victim's previous sexual behaviour, previous allegations of assault, or compensation claims are only used in favour of the accused if clearly relevant and absolutely necessary.
40. It will also introduce legislation to clarify that previous convictions of domestic abuse – of any type and against any victim – can be shown to the court to indicate a propensity for further offending – regardless of the specific offence committed.
41. The measure will introduce a statutory definition to clarify the scope of a witness's evidence for the purposes of special measures to include the reading of a VPS. Such a statement will encompass the reading of a VPS, a family impact statement and a community impact statement, ensuring these are recognised as components of the witness's evidence.
42. This measure will also amend section 28 YJCEA 1999 to make it clear that the court has authority to order all or part of a video recording of the witness's evidence. When making this decision, the court must weigh any potential unfairness to the accused against the benefit of showing the full or most of the recorded evidence.
43. Likewise, this measure will amend section 23 YJCEA 1999 to introduce a statutory power to enable the witness to be screened from the defendant, rather than only screening the defendant from the witness, to reflect current courtroom practice. For intimidated witnesses, a rebuttable presumption will apply whereby, if an application is made, a screen can be used to prevent the defendant from seeing the complainant and vice versa when they give evidence via live link and during the pre-recording of cross-examination.
44. Measure 1a will amend section 25 YJCEA 1999 to permit additional categories of individuals to remain in the courtroom when a direction under that section is made. This will include any accredited representative of a news gathering or reporting organisation, any academic researcher conducting research that has been approved by a university ethics committee and one supporter for the witness, as specified in the application for special measures. The measure will also empower the court to grant applications for additional individuals to attend part of the hearing subject to a section 25 direction, where it considers this to be in the interests of justice. Section 25 will also be renamed 'Evidence given in private' instead of 'Exclusion of the public' to better reflect its purpose.
45. Finally, the measure will create a statutory special measure allowing a witness to be accompanied by a companion while giving evidence. Where an application is for a professional supporter, a rebuttable presumption will apply in favour of granting the measure. In cases involving non-professional companions, the court will consider whether the use of the presence of the companion would be likely to improve the quality of the witness's evidence.

Measure 1b: Repealing the presumption of parental involvement

46. Measure 1b will repeal the statutory presumption of parental involvement; the Children Act 1989 will be amended to remove section 1 (2A) (2B) (6) and (7).

Measure 1c: Reform to the office of Senior President of Tribunals

47. Measure 1c will abolish the current freestanding office of SPT, replacing it with a new office under the LCJ having first carved out the SPT's responsibilities insofar as they relate to

judges and non-legal members working within the reserved tribunals in Scotland and in Northern Ireland, so that these responsibilities are separate.

48. This measure will create a more unified judicial structure for the courts and tribunals in England & Wales. It has the potential to underpin greater cross-deployment, judicial career development opportunities, and a more diverse and collegiate judiciary.

Measure 1d: Central Criminal Court

49. Measure 1h will amend section 8(3) so that the Central Criminal Court designation applies only to the Old Bailey. It will also preserve the entitlement of the Lord Mayor and Alderman of the City of London, which will continue to be exercisable to the same extent when the Crown Court sits at other premises in the city.

Measure 1e: Reforming Magistrates Expenses

50. Measure 1e will remove the existing statutory allowance categories from primary legislation and replace them with a delegated power so that the magistrates' expenses framework can be set out in secondary legislation.

E. Cost & Benefit Analysis

51. This section of the IA summarises the main monetised and non-monetised impacts of the above legislative measures on individuals and groups in the UK. These impacts have been assessed using the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.

52. 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.

53. The costs and benefits of each option are compared to option 0, the counterfactual or "do nothing" scenario. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present social value (NPSV).

54. The expected impacts of the legislative measures described above are summarised for each measure below.

55. As is normal practice in MoJ IAs, the impacts on offenders associated with upholding the sentence of the court are not included in the costs and benefits of each option. All impacts presented are best estimates, and subject to a degree of uncertainty.

56. Some measures in this IA have monetised costs and/or benefits of low magnitude. These have been classified as de minimis and are instead classed as non-monetised impacts. This approach reflects the natural level of uncertainty in the analysis, which makes it disproportionate to include monetised costs and benefits of such low magnitude.

Option 1: Legislate to introduce the measures in the Courts Bill

Measure 1a: Admissibility of evidence and Special Measures in Sexual Offence Prosecutions

Costs of Measure 1a

Monetised costs

57. There are no anticipated monetised costs associated with this measure.

Non-monetised costs

58. Updates to guidance and a familiarisation period will need to be undertaken by the MoJ, HMCTS, Home Office, AGO, CPS, criminal barristers, the Bar, Criminal Injuries Compensation Authority and judiciary. This may have impacts as they work to understand and apply the new measures. However, it is anticipated that these costs will be temporary and minimal.

59. Minor logistical changes may be required to accommodate additional resources if demand for special measures increases. This could impact on court time, but this is expected to be negligible and temporary.

Benefits of Measure 1a

Monetised benefits

60. There are no anticipated monetised benefits associated with this measure.

Non-monetised benefits

61. This measure may have some efficiency benefits at court, as evidence will only be admitted when truly relevant. However, this may be counterbalanced by the fact that these legislative changes will require additional scrutiny from the judge when determining admissibility of evidence.

62. There may also be some benefit to victims, who may feel more confident that evidence will be used fairly in court and that irrelevant evidence will be brought to trial. Greater confidence in the process may encourage more victims and witnesses to engage fully with proceedings, contributing to better justice outcomes.

63. There may be potential improvements in the quality, reliability and completeness of witness evidence, arising from reduced intimidation, anxiety or trauma felt by the victim.

64. Clearer statutory definitions and codification of existing practices surrounding special measures should improve operational efficiency, provide greater clarity to victims and professional advisers, and reduce administrative burdens between agencies.

65. Allowing approved academics and an unlimited number of accredited press members to remain in the public gallery promotes transparency and upholds the principle of open justice

Measure 1b: Repealing the presumption of parental involvement

Costs of Measure 1b

Monetised costs

66. There are no anticipated monetised costs associated with this measure.

Non-Monetised costs

67. Non-resident parents may be concerned that this legislative change will result in their contact with their child being limited. This may be emotionally costly to parents.

68. There may be costs for Cafcass, Cafcass Cymru, local authorities, the judicial office, legal advice and support services or other relevant family justice organisations to update advice and guidance in response to the legislative changes brought about through this measure. It is not possible to monetise this cost as it is unknown in total how many organisations this might apply to or the costs that would be required to make this update. In any event, the cost is not anticipated to be high.

69. There may be further costs for Cafcass, Cafcass Cymru, local authorities, HMCTS and the Legal Aid Agency if this measure results in an increase in applications. This may be where the introduction of this measure triggers a parent to make a new application to family court that they would not otherwise have made. For example, they may believe that this measure will help them secure a change to existing child arrangements. It isn't known how many new cases will be created by this measure, but any increase in numbers is expected to be small, and so any additional costs would be negligible.

Benefits of Measure 1b

Monetised benefits

70. There are no anticipated monetised benefits associated with this measure.

Non-Monetised benefits

71. Victims of domestic abuse, or non-abusive parents, raising concerns of abuse or harm, may feel more confident that the family justice system will take their concerns about abusive parents seriously. This may be emotionally beneficial to these parents. It may also provide victims of domestic abuse or non-abusive parents the confidence to make an application to the family court to raise their concerns of abuse or harm, therefore benefitting children who may be at risk of harm.

72. This measure will - with other planned reforms - help to create a process and culture in family courts that centres individual child welfare when making decisions about child arrangements and other relevant orders. This will support child welfare and protect them from harm with short and long-term implications across their life course

Measure 1c: Reform to the office of Senior President of Tribunals

Costs of Measure 1c

Monetised costs

73. There are no anticipated monetised costs associated with this measure.

Non-Monetised costs

74. This measure will have no significant non-monetised costs; There may be a minimal cost related to administration of the measure.

Benefits of Measure 1c

Monetised benefits

75. There are no anticipated monetised benefits associated with this measure.

Non-Monetised benefits

76. Bringing tribunals leadership within the E&W judicial hierarchy under the LCJ will create a simpler leadership model in England & Wales.

77. This measure will support the development of judicial officeholders, promote flexible deployment between courts and tribunals, and build on continuing work to develop a shared culture across courts and tribunals judiciaries. This will benefit morale and recruitment for tribunals judiciary.

78. Reform will strengthen the judiciary for the future and further promotion of an inclusive and collegiate culture.

Measure 1d: Central Criminal Court

Costs of Measure 1d

Monetised costs

79. There are no anticipated monetised costs associated with this measure.

Non-Monetised costs

80. There are no anticipated non-monetised costs associated with this measure.

Benefits of Measure 1d

Monetised benefits

81. There are no anticipated monetised benefits associated with this measure.

Non-Monetised benefits

82. This measure will help ensure that any confusion created by having two locations of the Crown Court in the City of London, and therefore two Central Criminal Courts, will be avoided.

Measure 1e: Reforming Magistrates Expenses

Costs of Measure 1e

Monetised costs

83. There are no anticipated monetised costs associated with this measure.

Non-Monetised costs

84. The measure may have a minimal impact on non-monetised costs due to costs related to administration of the policy.

85. At the point of introducing more categories of expenses, there may be costs which will depend on the nature of any new expense categories.

Benefits of Measure 1e

Monetised benefits

86. There are no anticipated monetised benefits associated with this measure.

Non-Monetised benefits

87. A more flexible approach to expenses will enable more timely response to changes in categories of costs incurred by magistrates in the fulfilment of their duties. It will potentially increase the number of candidates applying for roles and improve retention.

88. In particular, a more flexible approach will support policy aims to attract younger (working age) candidates and candidates from lower socio-economic backgrounds.

89. Additional capacity in magistrates courts will reduce pressures in the Crown Court, and support more timely processing of cases with associated benefits for victims and defendants.

F. Assumptions, Risks and Sensitivity Analysis

90. All of the above estimates are based on assumptions and are therefore subject to an element of risk.

Table 2: Key Assumptions, risks and uncertainties

Main Assumptions	Risks / uncertainties
<i>Admissibility of Evidence and Special Measures in Sexual Offence Prosecutions</i>	
There will be no additional burden placed on the criminal justice system.	Requests for evidence to be admitted by parties to a case may take longer for the court to review following these changes. This may have a small timeliness impact. However, changes are anticipated to be negligible.
<p>No significant increase in resource use, training demand or administrative oversight is anticipated. The majority of the new provisions will formalise practices that are already widely in use within the courts.</p> <p>Case volumes and listing capacity are expected to remain broadly stable. Measures such as the presence of a companion, exclusion of the public, and the presumption that intimidated witnesses will use a screen when giving evidence via section 24 or section 28 will be applied selectively – only where requested by the witness and deemed necessary and in the interests of justice. These applications are expected to represent a small proportion of total witness appearances and will not become the default for all cases involving vulnerable or intimidated witnesses.</p>	<p>There is a possibility of uneven application of the new statutory provisions during the early stages of implementation. Variations in interpretation between courts or differing levels of understanding among judges could lead to confusion and inconsistent practice. However, this effect is anticipated to be temporary and should diminish as understanding becomes more established. Measures are designed to improve consistency and provide clarity.</p> <p>In the initial implementation phase, prosecutors, counsel, and court staff may require time to familiarise themselves with the amended provisions. Integrating these changes into case preparation could temporarily reduce procedural efficiency. These inefficiencies are expected to</p>

<p>Courts are already equipped with the technology and physical infrastructure required to support the proposed measures, including witness screens. No further capital investment or major upgrades to courtroom facilities will be necessary. HMCTS will manage any implementation requirements within existing operational budgets.</p>	<p>diminish as the new framework becomes embedded in routine practice.</p> <p>While the changes to section 25 aim to uphold the principle of open justice, increasing the frequency of this measure could lead to public concern about more regular exclusion from the public gallery and its implications for transparency and the principle of an open hearing.</p>
<p><i>Repealing the presumption of parental involvement</i></p>	
<p>It is assumed that the repeal of the presumption from the Children Act 1989 will not impact on the number of cases that come to court or the length of time cases will spend in court. This is because the repeal changes the process through which judges or magistrates must approach decision making – in that they will no longer need to go through each of the stages involved in deciding whether the statutory presumption applies in a given case (albeit they will still need to consider parental involvement including as regards Article 8 ECHR rights).</p>	<p>If this assumption is not realised and the repeal in fact has an impact on case volumes or length, the costs/benefits of this policy may be underestimated.</p>
<p><i>Reform to the office of Senior President of Tribunals</i></p>	
<p>This reform will allow the senior judiciary to make the work on cohesion more effective.</p> <p>It is assumed that under the change in the formal structure of the courts and tribunals system that the new SPT office will retain the same functions in England & Wales via delegation, thus current processes would continue to operate robustly.</p>	
<p><i>Reforming Magistrates Expenses</i></p>	
<p>The measure may increase the recruitment and improve the retention of magistrates, attracting younger and diverse candidates.</p>	<p>It is unclear how the legislative change will affect the numbers of and cost associated with expenses claims made by magistrates. This is because, although the measure moves the existing allowance categories out of primary legislation, the long term position will depend on how the Lord Chancellor exercises the delegated power. The measure does not specify what, if any, amendments to the expenses policy there will be.</p> <p>This change to primary legislation will not immediately impact the expenses system as the regulations which may specify alternative expenses categories will only be introduced in the future through secondary legislation. One purpose of this legislative change is in anticipation of the need to make changes to the expenses system in the future (i.e. to future proof). Therefore, the potential impact will only be considered once new expense categories are agreed upon and</p>

	considered for secondary legislation; following the commencement of the Courts Bill.
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G. Wider Impacts

Equalities

91. Equality Impact Assessments for each of the legislative measures in this IA have been published alongside this IA.

Better Regulation

92. The legislative measures in this IA are not within the scope of the government's better regulation agenda.

Small and Micro Business Assessment

93. The legislative measures in this bill are not expected to have any notable impacts on small and micro businesses.

Environmental Impacts

94. The legislative measures in this bill are not expected to have any environmental impacts.

Economic Growth

95. The Courts Bill will not have a direct impact on economic growth. However, it reinforces the rule of law which provides the legal certainty and institutional stability essential for economic growth.

H. Monitoring & Evaluation

96. The following measures have set out an intention to monitor and evaluate the impact of the measure.

Measure 1b: Repealing the presumption of parental involvement

97. The measure will come into force when Parliamentary time allows. Further announcements on the timings of the implementations will be made in due course. The government will monitor this measure following implementation.

Measure 1e: Reforming Magistrates Expenses

98. Consideration is being given to undertaking an annual magistrates' attitude survey. Work will continue in collaboration with magistrates' representative organisations, to understand the views of magistrates on this change.

Other Measures

99. The arrangements for monitoring and evaluation of the other bill measures are being developed.

