VICTIM AND COURTS BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Victim and Courts Bill as brought from the House of Commons on 28 October 2025 (Bill HL Bill XX). The Bill completed Committee Stage in the House of Commons on 17 June 2025. The Bill will be introduced into the House of Lords on 28 October 2025 with the Bill Number 141-EN.

These Explanatory Notes have been prepared by Ministry of Justice in order to assist the reader. They do not form part of the of the Bill and have not been endorsed by Parliament.

These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.

These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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These Explanatory Notes relate to the Victim and Courts [AUTOGENERATED] [AUTOGENERATED] on 28 October 2025 ([AUTOGENERATED] HL Bill XX)

Overview of the Bill

1 The Victims and Courts (VAC) Bill will make provision about victims and about procedure connected to criminal justice and the administration of criminal justice so far as they relate to the prosecutorial function and sentencing.

2 First, the Bill will give courts an express statutory power to require offenders to attend their sentencing hearing and states that they commit a criminal contempt if they fail to comply with such an order without reasonable excuse. This provision applies to all offenders being sentenced in the Crown Court. This clause also makes it clear that reasonable force may be used to give effect to that order where necessary and proportionate. In dealing with the contempt, the measure also creates a new power for the Crown Court to make a prison sanctions order in relation to an offender who is aged 18 or over in a prison or Young Offender Institution (provided exclusively as a place of detention for persons aged 18-20). The Bill also makes broadly equivalent provision for the Service Justice System.

3 Second, the Bill will bring forward a measure to automatically restrict the exercise of parental responsibility for child sex offenders sentenced for four years or more for an offence against a child. The Bill will also bring forward a measure to restrict the parental responsibility of offenders sentenced for a rape offence from which a child was conceived.

4 Third, the Bill will make non-disclosure agreements (NDAs) unenforceable insofar as they purport to prevent victims or direct witnesses of crime (including those who reasonably believe they are such) from alleging or disclosing information about relevant criminal conduct, or about the other party's response to it. The Bill also creates two regulation-making powers allowing the Secretary of State to: (i) specify exceptions for certain NDAs that would otherwise be voided; and (ii) provide that disclosures to specified persons, for specified purposes or in specified circumstances are always permitted, even where an "excepted NDA" has been signed.

5 Fourth, the Bill will update the current legislative framework for England and Wales to provide all victims with certainty about the routes available to receive information about an offender's release while they are serving their sentence.

6 Fifth, the Bill will strengthen the powers of the Victims' Commissioner:

a. Clause 8 will amend legislative restrictions to enable the Commissioner to exercise their functions in relation to individual cases, where they raise issues of public policy relevance;

b. Clause 9 will place a duty on local authorities and social housing providers, where they are engaged with victims of antisocial behaviour, to cooperate with the Victims' Commissioner, where appropriate and reasonably practicable to do so;

c. Clause 10 will place a new duty on the Commissioner to produce an annual report to Ministers on bodies' compliance with the Code, enabling them to provide independent commentary from a victim-focused perspective on how criminal justice bodies are complying with their duties under the Code. Ministers (the Secretary of State for Justice, Attorney General and Home Secretary) will be required to have regard to the report as part of preparing their own report on Code compliance (pursuant to section 11(1)(b) of the 2024 Act).

7 Sixth, the Bill will change the statutory eligibility requirements for Crown Prosecutors (CPs) and those appointed to conduct prosecutions on behalf of the CPS. This will be achieved by removing the current statutory requirement for a 'general qualification' under S.1(3) and S.5(1) of the Prosecution of Offences Act 1985. The Director of Public Prosecutions (DPP), who is responsible for designating CPs would thus have greater flexibility in terms of who could be designated. This

will enable the DPP to consider candidates from a wider range of legal professionals (including Chartered Institute of Legal Executives (CILEX) Practitioners who currently face restrictions in satisfying the statutory requirement, due to the fact that they normally qualify in only one of their specialisms (Civil, family or Criminal)).

8 Seventh, the Bill will amend the Prosecution of Offences Act 1985 (POA) to provide a power for the Lord Chancellor to set, via Regulations, rates at which prosecutors acting in private prosecutions can recover from central funds expenses properly incurred by them in relation to the proceedings.

9 Eighth, the Bill will amend the time limit for the Unduly Lenient Sentence (ULS) scheme to guarantee that the Law Officers have at least 14 days to consider whether to refer a sentence once a request to review the sentence has been received. For victims and others, any request to the Law Officers to consider a sentence would still need to be made within 28 days from the date of sentence.

10 Finally, the Bill provides that the maximum term of imprisonment for six either-way offences, on summary conviction, is "the general limit in a magistrates' court" rather than "6 months".

Policy background

Attendance at Sentencing Hearings

11 The refusal of several adult murderers to attend their sentencing hearings has led to a recognition of the need to clarify court's powers to order attendance. Examples of recent high-profile cases include Zahid Younis, in September 2020, for the murder of Henriett Szucs and Mihrican Mustafa; Koci Selamaj, in April 2021, for the murder of Sabina Nessa; Jordan McSweeney, in June 2022, for the murder of Zara Aleena; Thomas Cashman, in April 2022, for the murder of Olivia Pratt-Korbel; Lucy Letby in August 2023 for the murder and attempted murders of thirteen infants; and Kyle Clifford in March 2025 for the murder of Louise, Hannah and Carol Hunt.

12 An offender's refusal to attend court, or their disruptive behaviour during proceedings, can cause victims and their families significant further distress. In these circumstances, it can be seen as a final insult, 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 to act as a deterrent for the purposes of encouraging attendance at sentencing hearings when ordered and to uphold the authority of the court.

13 The Government included a commitment to legislate to require offenders to attend their sentencing hearings in the Kings speech pack in July 2024. These measures are now included in this Bill.

14 The Bill measures provide an express statutory power for the Crown Court and equivalent Service Courts (e.g. the Court Martial) to order an offender to attend their sentencing hearing. The Bill makes clear that an offender who refuses to attend their hearing, without reasonable excuse, commits a criminal contempt. This makes adult offenders liable for an additional 24 months' custody or, in the case of a child offender, a maximum penalty of £2,500. This also applies to offenders who, following an order to attend, commit contempt by misbehaving or disrupting the proceedings and are removed as a result. Offenders before Service Courts who commit a contempt are liable for a fine, 28 days' service custody or, alternatively, the offence may be inquired into by a civilian court for the purposes of contempt of court proceedings.

15 In addition, the Bill creates a new power for the Crown Court and, where a sentence of imprisonment has been imposed, equivalent Service Courts to impose prison sanctions for offenders who commit contempt by refusing to attend or who attend but then commit contempt by misbehaving or disrupting the proceedings and are removed as a result. The power taken in this clause will allow judges to impose sanctions that will be specified in regulations from those that are available to governors for offences against discipline in a prison. The measure provides a power to confer in regulations a discretion on the prison governor. It is intended that this will be used to permit the governor to override the order in exceptional circumstances, for example, where it is considered necessary for health, safety and operational reasons.

16 The measure will also make it clear that prison officers and prisoner escort officers may use reasonable force to deliver an offender, who is 18 at the point of sentencing, to court for their sentencing hearing where it is necessary and proportionate to do so. The decision on whether to use reasonable force remains that of the relevant trained prison staff. Children will not be subject to use of reasonable force for this purpose, in line with domestic policy, guided by the Taylor Review (2020) and the UK's commitments under the UN Convention of the Rights of the Child.

17 It will be for judges to decide whether to order an offender to attend court, and/or to require prisons to produce them, based on the circumstances of the particular case they are dealing with. This could include a decision not to order individuals to attend where there is a risk they may cause significant disruption in court, or whether there are significant other factors. Courts will be required to consult with Youth Offending Teams (YOTs) before imposing an attendance order on a child.

Restricting parental responsibility

18 This Bill provision requires the Crown Court to make a prohibited steps order, which is a section 8 order under the Children Act 1989 ('The CA 1989'), at the point of sentencing for certain offences where an offender has been sentenced to an immediate custodial sentence of four or more years, unless it appears to the court that it is not in the 'interests of justice' to do so. Schedule 1 provides a full list of the offences in scope of this measure.

19 The prohibited steps order will prevent the offender from taking any step in exercise of their parental responsibility in respect of any children for whom they hold parental responsibility and will have effect unless the Family Division of the High Court or Family Court varies or discharges the order.

20 Parental responsibility refers to all the rights, duties, powers, responsibilities, and authority which by law a parent or guardian of a child has in relation to the child and their property. Examples of exercising parental responsibility include making certain medical decisions.

21 Clause 3 inserts section 10C to the CA 1989 which at subsection (3) outlines that the prohibited steps order made by the Crown Court must make clear that the offender cannot take any step in exercise of their parental responsibility without the consent of the Family Division of the High Court or the Family Court and that the prohibited steps order must remain in place until it is varied or discharged by the Family Division of the High Court or the Family Court.

22 In new section 10C, subsection (4)(b) further allows the Crown Court not to make a prohibited steps order where there is already a prohibited steps order that meets the requirements outlined above in place for the offender in question in relation to the same child(ren), or pursuant to subsection 10C(4)(c) where to make a prohibited steps order would not be in the interests of justice.

23 New section 10D details the process to be followed where an offender has been successful in their appeal. Where an offender is acquitted, or their sentence is reduced so that they no longer meet

the threshold for the prohibited steps order, an obligation will be placed on the relevant local authority to make an application to the Family Court to review the order.

24 This Bill provision requires the Crown Court to make a prohibited steps order, which is a section 8 order under the Children Act 1989 ('The CA 1989'), at the point of sentencing for rape where it was established that a child for whom the offender holds parental responsibility was conceived as a result of that rape, unless it appears to the court that it is not in the 'interests of justice' to do so.

25 Where it was not established for the purposes of sentencing that the child was conceived by rape, the Crown Court must refer the case to the relevant local authority when:

a. An offender is convicted of rape

26 The offender has parental responsibility for the child:

a. The Crown Court is satisfied that there is an issue as to whether the child was conceived of that rape.

27 If the above conditions are met the Crown Court must refer the case to the local authority within 30 days. In these circumstances the local authority will have 6 months in which to obtain the consent of the mother for them to initiate Family Court proceedings. The local authority will have 30 days from receipt of consent to apply to the Family Court who will then consider whether any orders (including prohibited steps orders) should be made in the best interests of the child.

28 Clause 4 inserts section 10E to the CA 1989 which provides for the restriction of the exercise of parental responsibility for offenders convicted of rape from which a child was conceived. In these cases, if the Crown Court is satisfied that the child was conceived as a result of the rape they must make prohibited steps order restricting the offender's parental responsibility for the child conceived of rape. The Crown Court must not make a prohibited steps order where it is satisfied it would not be in the interests of justice to do so.

29 New section 10F details the process to be followed where the section 10E does not apply, but where the Crown Court is satisfied that the child may have been conceived from that rape. In these cases, an obligation will be placed on the local authority to apply to the Family Court to determine whether a section 8 order should be made. Any decision made in the Family Court is made in the best interests of the child(ren).

30 New section 10G details the process to be followed where an offender has been successful in their appeal. Where an offender is acquitted, an obligation will be placed on the relevant local authority to make an application to the Family Court to consider whether the order should be varied or discharged in the best interests of the child(ren).

Victims' rights to make disclosures relating to criminal conduct

31 Non-disclosure agreements (NDAs) are legal agreements which place confidentiality requirements on certain information or ideas shared between the parties, in exchange for something of value. NDAs can take the form of a standalone agreement or contract, or clauses within a larger agreement or contract.

32 NDAs are used in a variety of agreements and there are legitimate uses of NDAs. For example, confidentiality clauses within employment contracts may protect trade secrets, business plans or client lists. NDAs are also used as part of settlement agreements following the conclusion of civil

claims, for example by requiring parties not to disclose settlement payment figures. If one party breaches an NDA by disclosing information protected by its terms, the other party may have a claim for breach of contract and could pursue a claim for damages.

33 NDAs can also be used (in some cases validly) to prevent victims and witnesses of crime, and harassment (including sexual harassment) and discrimination, from speaking about the conduct to others – be it a close family member, a victim support service, or the press. However, the common law already provides protections which mean that NDAs cannot be enforced against a contract party if they purport to prevent victims of crime from reporting criminal activity to law enforcement.

34 Evidence has emerged in recent years about the misuse of NDAs in these circumstances. In recent years there have been several legislative initiatives that have sought to address the misuse of NDAs:

35 The Higher Education (Freedom of Speech) Act 2023, placed a duty on governing bodies of registered higher education providers to secure that providers do not enter into NDAs with students, staff, members or visiting speakers where they come forward with a complaint of sexual misconduct, abuse or harassment, or any other form of bullying or harassment. Any such NDAs entered into on or after 1 August 2025 are void.

a. Section 17 of the Victims and Prisoners Act 2024 ("the 2024 Act"), which commenced on the 1 October 2025, allows victims of crime to disclose information to a specified list of bodies for specified purposes related to the criminal conduct. This means that victims can report a crime, cooperate with regulators and access confidential support without risking legal action, by providing that confidentiality clauses that purport to prevent these disclosures cannot be legally enforced.

36 Once commenced, section 202A of the Employment Rights Act 2025 ("the ERA 2025"), will void any provision in an agreement between a worker and their employer insofar as it purports to prevent the worker from disclosing an allegation of, or information relating to, relevant harassment or discrimination; or their employer's response to the conduct or such an allegation or disclosure of information, except in circumstances specified in regulations. Under the ERA 2025, relevant harassment or discrimination is defined in line with the definitions of harassment and discrimination in the Equality Act 2010 which the worker or a co-worker has suffered or is alleged to have suffered; or is conduct carried out or alleged to have been carried out by the employer or a co-worker

37 The measure in the Victims and Courts Bill will go further than section 17 of the 2024 Act, by expanding the type of disclosures about criminal conduct that victims of crime can make and who they can make them to. The measure will make it so that NDAs used in any context cannot be enforced to the extent that they purport to prevent victims and direct witnesses of crime (including those who reasonably believe they fall into these categories), from making allegations of, or disclosing information relating to, relevant criminal conduct. It will also render NDAs unenforceable to the extent that they purport to prevent these individuals from making disclosures about the other party to the NDA's response to the criminal conduct or the making of such an allegation or disclosure of information. Unlike section 17 of the 2024 Act, this measure does not limit who victims and direct witnesses of crime can make disclosures to, or for what purpose they can disclose that information. The measure binds the Crown, but will not apply to a narrow cohort of specified agreements for national security reasons.

38 The measure will include two regulation-making powers to allow the Secretary of State to: (i) provide for exceptions for NDAs which meet certain criteria, so that they would not be voided under this measure; and, (ii) provide that disclosures to certain persons, for certain purposes or in certain circumstances will always be permissible, even when an 'excepted NDA' has been entered

into. These powers allow the Secretary of State to provide for a system of exceptions which recognises that there may be situations where both parties wish to have the protection offered by an NDA in relation to the criminal conduct or where it is appropriate for the NDA to remain enforceable.

39 This new measure will ensure that victims and direct witnesses of crime have the same protections that victims of workplace harassment and discrimination will have under the ERA 2025 measure. For example, if a worker (or another individual who has signed an NDA outside of the employment context) is a victim of a crime that does not constitute harassment under the Equality Act 2010, such as being defrauded by their employer, the ERA 2025 measure would not apply but the Victims and Courts Bill measure would. This measure will also ensure that, for example, a member of staff and a guest on the set of a TV show (who is not an employee) who have suffered the same conduct that constitutes criminal harassment, such as sexual assault or rape, would be able to disclose under the ERA 2025 measure (the member of staff) or the Victims and Courts Bill measure (the guest and the member of staff).

40 Once this measure is commenced, it will repeal and replace section 17 of the 2024 Act. As noted above in paragraph 34b, section 17 was commenced on the 1 October 2025. Using section 17 as an interim measure ensures that victims of crime are able to benefit from the protections provided for in section 17 between 1 October 2025 and the date on which the measure in this Bill is commenced.

Victims' rights to make representations and receive information

41 The Victim Contact Scheme is a communication tool that offers eligible victims the opportunity to be contacted at key points of their offender's sentence, including information about upcoming release or discharge, and to make representations about any protective conditions.

42 The Victim Contact Scheme is established under sections 35 – 45 of the Domestic Violence Crime and Victims Act 2004 ('the DVCVA'). This provides for victims of specified sexual, violent or terrorism offences where an offender receives a sentence of 12 months or more (at least part of which is custodial) or is detained in a hospital for treatment to receive certain information and to make representations about licence conditions or supervision requirements. His Majesty's Prison and Probation Service (HMPPS) operates the Victim Contact Scheme.

43 That legislation is now over 20 years old. There are victims of other offences served by different operational schemes (such as victims of stalking and harassment who are eligible for the Victim Notification Scheme) who the Government wants to bring into scope of the Victim Contact Scheme. The Government has also listened to concerns that have been raised about the need for victims who fall outside of specified offence types to have a route to receive information about an offender's release.

44 This Bill therefore updates the current legislative framework for England and Wales to provide all victims with certainty about the routes available to receive information about an offender's release while they are serving their sentence.

Bringing victims currently served by different operational schemes into the Victim Contact Scheme

45 To create one consistent operational scheme, the Bill updates the legislative framework for the Victim Contact Scheme to cover victims of the following offences where the sentence involves detention or imprisonment:

a. Serious violent, sexual and terrorist offences where the offender receives a sentence of over 12 months;

b. Death by careless driving offences and injury caused by dangerous driving offences, where the offender receives a sentence of 12 months or more; and

c. Specified stalking, harassment, and coercive and controlling behaviour offences, regardless of the length of sentence.

46 For eligible victims, Probation will proactively offer the Victim Contact Service. This will entitle victims to information about when the offender will be eligible for release/discharge, information about any victim related licence conditions or supervision requirements they will be subject to on their release or discharge, and any other information as is appropriate in all circumstances of the case (i.e., necessary and proportionate). Victims will also have a statutory right to make representations about any victim related licence conditions or supervision requirements that the offender may be subject to in the event of their release or discharge.

Giving other eligible victims a clear route to request information about their offender's release

47 The Bill will provide a new route for victims to request information about their offender's release which will be delivered via a dedicated Victim Helpline. This will mean that victims of certain specified offences will be entitled to relevant information about release if they ask for it. These are:

a. offences identified by criminal justice agencies as linked to domestic abuse, regardless of sentence length;

a. specified breach offences linked to Violence Against Women and Girls offences, regardless of sentence length; and

b. violent, sexual, terrorist, and dangerous driving offences with sentences less than 12 months.

48 If a victim contacts Probation seeking information about an offender, and they are a victim of a specified offence, they will have a statutory right to information about when the offender will be eligible for release/discharge, any victim related licence conditions or supervision requirements they will be subject to in the event of their release or discharge, and any other information as is appropriate in all the circumstances of the case. There is also nothing preventing victims from providing representations which could be used to inform offender management decisions on licence conditions.

49 Probation will not have an ongoing obligation to provide further information and can only do so on request.

Eligibility

50 Victim eligibility for both the Victim Contact Scheme and the Helpline will be determined by reference to a new statutory definition of 'victim' for the purposes of the scheme, the offence the offender was convicted of, and the sentence of imprisonment or detention order received. The measure also provides an overarching eligibility criterion that allows Probation discretion to provide either service to other victims where appropriate: if a victim is not a victim of a specified offence, Probation can provide the same information if they consider that the victim is at risk of physical or psychological harm if they did not have the information about the offender.

51 The definition of 'victim' for the purposes of this measure substantially adopts the definition of a victim of crime under the Victims and Prisoners Act 2024. It specifies that a 'victim' includes those directly subjected to criminal conduct, bereaved family members, children who have witnessed

domestic abuse (considered victims in their own right as defined by the Domestic Abuse Act 2021), and persons born as a result of rape. To ensure consistency, this definition will also apply to the related statutory entitlement to provide victim impact statements to the Mental Health Tribunal under section 37ZA of the DVCVA.

52 The definition of a victim is extended to allow for discretionary provision of information to witnesses who have suffered harm as a direct result of the crime, so that relevant information can be provided in individual cases where Probation deem that the witness would be at risk of physical or psychological harm without it.

53 This measure allows discretionary provision of information to victims outside of the specified offences if Probation consider that the victim is at risk of physical or psychological harm if they did not have the information about the offender. Operational guidance will set out principles to support Probation in making these individual decisions, including how risk of physical or psychological harm should be determined.

54 Probation will also have a discretion to treat victims who receive information in accordance with these measures as if they were otherwise eligible for the victim contact scheme by offering them the opportunity to give a victim impact statement to the First-tier Tribunal or the Mental Health Review Tribunal for Wales, where it is appropriate to do so.

55 We also envisage circumstances where offences may need to be added or different sentence lengths attached to the list of specified offences, where new offences within scope of the policy are created, sentence lengths change over time, or affordability or deliverability of the scheme changes and the service can be delivered to a broader cohort. Therefore, the measure will also introduce regulation-making powers for the Secretary of State to amend the list of offences and the specified lengths of sentence which would make a victim automatically eligible for either service level by regulation.

56 These measures would extend and apply to victims of offenders detained in prisons or in hospitals in England and Wales, in line with the current scheme. They will make provision of information simpler for victims where the offender is detained in hospital under the Mental Health Act 1983 under a hospital order (made with or without a restriction order), a transfer direction, or a hybrid order, and provide parity of information for victims of offenders detained under different provisions of the 1983 Act where possible.

Victims' Commissioner

57 Clauses 8 to 10 of the Bill seek to empower the Victims Commissioner ("the Commissioner") to better hold the system to account, by amplifying victims' and witnesses' voices in their work to address public policy issues and by bringing independent oversight to how bodies comply with the Victims' Code ("the Code"). Strengthening this role will ensure victims and witnesses of crime and persistent antisocial behaviour have the information and support they need.

58 The Victims' Commissioner is the independent voice for victims and witnesses of crime and antisocial behaviour. Under their broad remit, the Commissioner can engage with those they deem relevant in delivering their functions in relation to victims and witnesses. They are not able to exercise their functions in relation to a particular victim or witness, particular proceedings, or anything done by those acting in a judicial or prosecutorial capacity.

59 The Victims and Prisoners Act 2024 ("the 2024 Act") enhanced the Victims' Commissioner's powers. Authorities under the Commissioner's remit must now respond to relevant recommendations in the Commissioner's reports within 56 days (section 22(3) of the 2024 Act). Those subject to the duty contained in section 5(1) of the 2024 Act – which requires Code service providers to provide services in accordance with the Code unless there is a good reason not to -

are now also under a duty to cooperate with the Commissioner in any way they consider necessary for the exercise of their functions, where appropriate and reasonably practicable (section 22(4) of the 2024 Act), and must consult the Commissioner on their inspection frameworks and programmes (sections 23(2), 24(2), 25(2) and 26(2) of the 2024 Act). These measures came into force on 29 January 2025.

60 Once the relevant provisions from the 2024 Act are implemented, the Commissioner will also have a defined role in relation to both the Code and Code compliance: as a statutory consultee on the new Code and any amendments to the Code, any non-compliance notifications that are issued by Ministers, and on the guidance and regulations underpinning the 2024 Act's Code compliance and awareness measures.

Commissioner's power to act in individual cases relevant to public policy

61 One of the Victims' Commissioner's key functions is to promote the interests of victims and witnesses. Currently, the Commissioner can engage with agencies that interact with victims and witnesses, including Government bodies and the voluntary sector, to raise concerns and highlight system-level issues. However, where the experiences of individual victims or witnesses signal wider policy issues, existing legislation lacks clarity on the extent to which the Commissioner can explicitly take action on those cases with agencies in order to highlight and understand specific issues and concerns and prompt improvements.

62 The Bill will make clear that the Commissioner can exercise their functions in relation to individual cases that raise public policy issues when this is likely to promote the interests of other victims or witnesses. To achieve this, the legislative bar preventing the Victims' Commissioner's involvement in individual cases (section 51(a) of the Domestic Violence, Crime and Victims Act 2004 (DVCVA)) will be amended. The amendment will limit the Commissioner's ability to exercise their functions in relation to individual cases to those which raise issues of wider policy relevance, and circumstances where the exercise of functions in relation to that case is likely to promote the interests of other victims or witnesses in relation to the issue(s).

63 Under this new measure, the Commissioner could, for example, request information from agencies on how a particular failing occurred, request updates on the next steps on how the public policy issue identified will be addressed, and promote best practice when it is in the interest of driving policy or operational changes. This measure is not intended to turn the Commissioner into a complaints-handler. Existing complaints routes, such as agency complaints processes, will continue to provide the appropriate avenue through which victims can seek a resolution to their particular concerns.

64 The Bill will not amend the restrictions on the Commissioner exercising their functions in relation to: the bringing or conduct of particular proceedings (section 51(b) of the DVCVA); or anything done or omitted to be done by a person acting in a judicial capacity or on the instructions of or on behalf of such a person (section 51(c) of the DVCVA). Those restrictions prevent the Commissioner from, for example, discussing an ongoing case with the Crown Prosecution Service, or asking them to consider a particular charge; or from asking a judge to consider a particular sentence. These restrictions are intended to ensure the safety and independence of the criminal justice process and remain appropriate.

65 All victims and witnesses of crime and antisocial behaviour are captured by this measure, mirroring the cohort of persons within the Victims' Commissioner's remit pursuant to section 52 of the DVCVA.

Duty to co-operate with Commissioner: anti-social behaviour

66 The Government committed in its manifesto to introduce new protections for victims of crime and persistent antisocial behaviour, by increasing the powers of the Victims' Commissioner, and ensuring victims can access the information and support they need.

67 Antisocial behaviour is not always a criminal justice system issue and other agencies such as local authorities and social housing providers also play a key role in supporting these victims. The 2024 Act introduced a duty for certain criminal justice agencies responsible for providing Victims' Code services to cooperate with the Victims' Commissioner in any way that the Commissioner considers necessary for the purposes of their functions. Some of the agencies subject to this duty support victims of antisocial behaviour, such as the police.

68 However, this duty does not apply to some other agencies that are central for victims in seeking a resolution to antisocial behaviour, including local authorities and social housing providers. As a result, there is a gap in ensuring that the Commissioner has the tools to promote the interests and encourage good practice in the treatment of both victims of crime and victims of antisocial behaviour.

69 This measure will place a duty on local authorities and social housing providers when acting in that capacity (i.e. not when acting in a capacity unrelated to delivering social housing, for example as a residential developer) and when delivering public functions to cooperate with the Commissioner in any way that the Commissioner considers necessary for the purposes of their functions relating to victims and witnesses of antisocial behaviour. The Victims' Commissioner's functions include promoting the interests and encouraging good practice in the treatment of all victims of antisocial behaviour. This measure will ensure parity with the duty to cooperate already placed on agencies responsible for delivering Code services for victims of crime. It is intended to enable the Commissioner to request information which will assist them to identify systemic issues, make informed recommendations and scrutinise how the system responds to antisocial behaviour through a victims' lens, in line with the Victims' Commissioner's functions.

70 As with the 2024 Act duty on bodies responsible for providing Victims' Code services, local authorities and social housing providers will be required to comply with a request made by the Victims' Commissioner, provided it is appropriate and reasonably practicable to do so.

Duty of Commissioner to report on compliance with Victims' Code

71 The Victims' Code sets out the minimum level of service that victims should receive from the criminal justice system in England and Wales, and can act as a practical guide for victims to understand what they can expect.

72 In recognition of the role of the Commissioner in keeping the operation of the Code under review, this measure will amend the Code compliance framework in the 2024 Act (more detail on the framework in the 'Legal Background' section of these Explanatory Notes) to place a duty on the Commissioner to produce their own report on Code compliance. As such, the requirement for Ministers to consult the Commissioner on their Code compliance report (section 11(4)(a) of the 2024 Act) will no longer be required, and clause 8(2)(a) of this measure amends the 2024 Act to remove this requirement. This new duty will strengthen the Commissioner's role within the Code compliance framework.

73 Under this new duty, the Commissioner will be required to:

a. Annually make a report on Code Compliance to Ministers and;

b. Publish the report.

74 To complement this duty, Ministers will now be required to:

a. Have regard to the Victims' Commissioner's Code compliance report as part of

preparing their report pursuant to section 11(1)(b) of the 2024 Act.

75 It will be at the discretion of the Commissioner how they elect to discharge this duty (e.g. they may choose to combine the Code compliance report with their annual report). The Victims' Commissioner's report may contain recommendations directed at authorities within their remit. Such recommendations will be caught by the duty contained in section 49A of the DVCVA (as inserted by section 22(3) of the 2024 Act), which requires such authorities to respond to recommendations made to them in any of the Commissioner's reports within 56 days. Ministers may use their own Code compliance report to respond to any such recommendations.

Prosecutions

Appointment of Crown Prosecutions

76 Crown Prosecutors (CPs) are qualified lawyers 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.

77 The CPS is currently restricted in appointing certain legal professionals (e.g. CILEX Practitioners) as CPs due to an outdated legislative barrier.

78 Under section 1(3) and section 5(1) of the Prosecution of Offences Act 1985 ("the 1985 Act"), CPs (and those appointed to conduct prosecutions on behalf of the CPS) are required to have a 'general qualification' as defined in Section 71 of the Courts and Legal Services Act 1990. This requires 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. This means the CPS is restricted in appointing legal professionals who are not solicitors or barristers to work as Crown Prosecutors, even when the professional's specialism is criminal litigation with relevant litigation practice rights and rights of audience.

79 This amendment will give the DPP greater flexibility in who they designate as CPs and would allow them to appoint from a wider pool of legal professionals, including CILEX Practitioners, but not require them to do so.

80 This change does not impact on the requirements set out by the Legal Services Act 2007 ("the 2007 Act"). Exercising rights of audience and conducting litigation are reserved legal activities under Section 12 of the 2007 Act. This means that only an authorised person (such as a solicitor, barrister, or CILEX Practitioner) or an exempt person (for example, a trainee solicitor under supervision, a litigant in person representing themselves, or a McKenzie Friend with specific court permission) can appear before and address certain courts and/or conduct litigation. CPs and those appointed to conduct CPS prosecutions would no longer need to meet the 'general qualification' threshold that requires rights of audience in any part of the Senior Courts or all proceedings in county courts or magistrates' courts. Section 14 of the 2007 Act, which makes it an offence to carry out reserved legal activities unless entitled to do so, will continue to apply.

81 As the legal services market has evolved and new routes to qualification emerge, such as the CILEX professional qualification routes, the legislative requirement for a 'general qualification' has become increasingly unjustified. Certain legal professionals, such as CILEX Practitioners, have come to exercise many of the same functions as solicitors, although there are still differences in the legal functions they can undertake.

82 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 perhaps help to deliver swifter justice for victims by widening the pool of CP candidates.

83 This initiative may also 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) can qualify through a non-traditional route into the profession.

84 The measure aligns with the Government's manifesto commitment to ensure more prosecutors are available and reduce delays in the criminal justice system.

85 Currently sections 1 and 5 of the 1985 Act grant, to CPs and appointed persons, an exemption from the authorisation requirements of the 2007 Act This enables barristers working in these roles to conduct litigation without holding separate authorisation from the Bar Standards Board. The measure has been drafted so that those without a general qualification cannot rely on this statutory exemption. This prevents unsuitably qualified people being able to conduct reserved legal activities, whilst preserving the exemption for those currently eligible. This avoids inadvertently preventing these barristers from continuing their prosecutorial functions and causing operational disruption, potential costs, and delays for those CPS-employed barristers who would otherwise need to seek new authorisation to conduct litigation.

86 Overall, this measure enhances CPS recruitment flexibility, may support a more diverse and modern prosecutorial workforce, and maintains professional safeguards.

Private prosecutions: regulations about costs payable out of central funds

87 This measure is an enabling power for the Lord Chancellor to set rates in regulations. The Government is committed to consulting on the levels of hourly rates before laying secondary legislation to bring them into force.

88 The right to bring private criminal proceedings, and for a private prosecutor to subsequently apply to the Court for their expenses in bringing a prosecution, is established in the 1985 Act. The magistrates' court sees thousands of private prosecutions annually, mostly for regulatory offences. The volume in the Crown Court is far lower. A small proportion of private prosecutions result in a claim by the private prosecutor for payment of their expenses from central funds. Of these, the majority concern three broad types of offence: low-value shoplifting/theft, low-value fraud, and fraud prosecuted by companies or high net-worth individuals.

89 Where the Court does not fix the amount to be paid to the private prosecutor, it falls to the Legal Aid Agency's (LAA) Criminal Cases Unit (CCU) to assess claims for private prosecutor expenses. Typically, bills received cover the expenses of an investigation, litigation, advocacy and disbursements.

90 By matter of convention, when assessing private prosecutor claims, LAA officers employ Senior Courts Costs Office (SCCO) guideline solicitor hourly rates. These are intended to reflect civil market rates of pay and, following increases in recent years, are now significantly higher than those paid by equivalent criminal justice agencies.

91 In 2020, the Justice Select Committee (JSC) carried out an examination of the regulatory framework and safeguards governing private prosecutions. It recommended strengthened regulation of the sector, concluding that the government should review funding arrangements for private prosecutions to address the inequality of access to the right; to ensure a fair balance between the prosecutor and the defendant; and to ensure the most cost-effective use of public

funds.[1] In its response, the then Government agreed with the JSC's recommendation to address this inequity.[2]

92 In October 2021, the Master of the Rolls agreed with a recommendation from the Civil Justice Council to increase SCCO hourly rates for the first time in eleven years and subsequently agreed a further uprating with effect from 1 January 2024. He has also directed the rates be increased annually moving forwards, in line with the Services Producer Price Index. Spend on an annual basis can fluctuate significantly on the basis of a handful of exceptionally high-value claims, though the long-term trend for private prosecution expenses is upwards.

93 With increasing SCCO rates, the disparity between the amounts which may be paid to private prosecutors and by criminal justice agencies is more pronounced. This measure enables the Lord Chancellor to set the rates at which private prosecution expenses may be recovered from central funds, and in doing so, the Lord Chancellor will seek to ensure that the rates set are fair and proportionate, and reflect the complexity and seriousness of the cases involved, while ensuring the best use of public funds. Having set rates will provide greater certainty to private prosecutors about what will be paid and what is considered to be "reasonably sufficient to compensate the prosecutor," as required under section 17 of the 1985 Act.

94 Determining expenses can result in protracted negotiations because of the lack of prescribed rates, imposing a burden on the courts. By enabling the Lord Chancellor to set rates, this measure will save court time, helping to reduce delays, improve efficiency, and provide clarity for prosecutors.

95 At present, private prosecutions can involve significant expense, with those bringing prosecutions privately needing to meet substantial upfront costs in order to engage litigators. This can exclude individuals and organisations without substantial means from exercising the right to bring a private prosecution, even where there may be sound grounds for doing so. By enabling the Lord Chancellor to set rates for recoverable expenses, this measure also aims to ensure that rates recovered from Central Funds are fair and proportionate and are more supportive of individuals with more modest means bringing prosecutions, delivering a fairer justice system.

Sentencing reviews

Reviews of sentencing: time limits

96 The Unduly Lenient Sentence (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 of Appeal may quash the sentence and impose a different sentence.

97 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 case. This is a strict time limit with no possibility of extension: the reason for the time limit is that it is important that there is finality in sentencing, for both offenders and victims. Whilst the reasoning behind the time limit is right, the 28-day time limit

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

[2] Private prosecutions: safeguards: Government Response to the Committee's Ninth Report – page 4

can create practical issues, as potentially unduly lenient sentences are often only brought to the Law Officers' attention close to expiry of the time limit. These problems have become more acute as the number of requests received to refer sentences to the Court of Appeal has greatly increased in recent years.

98 This measure will amend the time limit to provide that, where a request is received in the last 14 days of the 28-day period, the Attorney General will have an additional 14 days from the date of the request to consider it and make any referral to the Court of Appeal. Victims and others must still make their request within 28 days of sentencing. This change will ease existing pressures and allow for proper consideration of cases even where requests are made very close to the end of the 28-day period.

Terms of imprisonment for certain offences on summary conviction

99 On 2 May 2022, the government increased magistrates' court sentencing powers from a maximum of 6 months to a maximum of 12 months' imprisonment for most single triable either-way offences by commencing section 282 of the Criminal Justice Act 2003. The offences covered by this change were those set out in legislation pre-dating or passed in the same session as the Criminal Justice Act 2003 or in later legislation which referred to section 282.

100 On 14 July 2022, section 13 of the Judicial Review and Courts Act 2022 ("the JRCA") amended section 224 of the Sentencing Code to establish separate general limits on the sentencing powers of the magistrates' court for summary-only and triable either-way offences. It also provided a power that allows the Secretary of State to vary the general limit on a magistrates' court sentencing powers for a single triable either-way offence to be either 6 months' or 12 months' maximum imprisonment via a negative Statutory Instrument.

101 The amendments made to section 224 of the Sentencing Code also included a power to enable the Secretary of State to amend legislation to stipulate the effect of the above changes. On 7 February 2023, the Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 ("the 2023 Regulations") came into force. These regulations used this power to amend over 200 offences by replacing references to the maximum penalty on summary conviction in a magistrates' court as "12 months" with "the general limit in a magistrates' court".

102 There are six triable either-way offences that post-date the Criminal Justice Act 2003 that were not within the scope of the 2023 Regulations because their maximum penalty was specified as being 6 months, rather than 12 months pending the commencement of section 282 of the Criminal Justice Act 2003. These are: unlawful sub-letting of secure tenancies; unlawful subletting of assured tenancies and secure contracts; breaches of certain orders or requirements in the Modern Slavery Act 2015; breach of a criminal behaviour order; breach of a sexual harm prevention order; and, breach of a restraining order.

103 This measure now changes the maximum term of imprisonment for these six specific offences, on summary conviction, from "6 months" to "the general limit in a magistrates' court". It therefore brings these six offences in line with all other triable either-way offences.

Legal background

Attendance at Sentencing Hearings

104 Courts have existing powers at common law to order offenders to attend their sentencing hearings. The purpose of new section 41A of the Sentencing Code is to clarify the nature of those powers by putting them on a statutory footing: section 41A of the Sentencing Code will therefore

create a new express statutory power to order offenders to attend their sentencing hearing and clarify that those who refuse commit a criminal contempt. It will also make it clear that reasonable force may be used to give effect to such an order, where it is necessary and proportionate to do so.

105 New section 41B creates a new express power for judges to order prison sanctions as a punishment for offenders subject to an attendance order who commit contempt by refusing to attend or who attend but then commit contempt by misbehaving or disrupting the proceedings and are removed as a result. Provision is made for regulations to specify the sanctions that may be imposed from those available to governors for offences against discipline in a prison. The measure provides a power to confer in regulations a discretion on the prison governor. It is intended that this will be used to permit the governor to override the order in exceptional circumstances where it is considered necessary for health, safety and operational reasons.

106 Equivalent provision is made in respect of the powers of the Court Martial and Service Civilian Court through amendments to the Armed Forces Act 2006.

Restricting parental responsibility

107 The Children Act 1989 ("the CA 1989") defines parental responsibility as all the rights, duties, powers, responsibilities and authority that a parent of a child has in relation to the child and their property by law (section 3 of the CA 1989). A child's mother will always have parental responsibility at birth for her child (section 2 of the CA 1989). If the mother is married to, or in a civil partnership with, the father, or the second female parent where relevant conditions are met, the father or second female parent will automatically acquire parental responsibility at birth (section 2 of the CA 1989). If they are not married at the time of the birth but subsequently marry or enter a civil partnership, the child is legitimised, and the father or second female parents automatically acquires parental responsibility. If the parents are not married or in a civil partnership with each other when the child is born, only the mother automatically has parental responsibility. The unmarried father or second female parent can acquire parental responsibility in a number of ways, including entering a parental responsibility agreement with the mother or via an order of the Court. Other persons, for example grandparents, aunts and uncles and stepparents, can acquire parental responsibility through measures such as obtaining a Special Guardianship Order from the court or being named as a person with parental responsibility on a child arrangements order. Stepparents can further obtain parental responsibility if married or in a civil partnership with a parent who has parental responsibility by entering into a parental responsibility agreement with that parent, or both parents if both parents have parental responsibility; this agreement must be witnessed and agreed to by the court (section 4A of the CA 1989).

108 Multiple people can have parental responsibility for a child at the same time, and a person with parental responsibility does not lose it solely because another person acquires parental responsibility. If more than one person has parental responsibility, each can act independently unless there is a statutory requirement to seek the consent of the others (section 2(7) of the CA 1989) or the decision is a major decision which sometimes require the consultation of other parental responsibility holders.

109 In cases of disagreement between those with parental responsibility, an individual can apply to the court for an order under section 8 of the CA 1989. Section 8 makes provision for several orders, including prohibited steps orders. A prohibited steps order is an order that means that no step which could be taken by a parent in meeting their parental responsibility, and which is of a kind specified in the order, shall be taken by any person to whom the order applies without the consent of the court.

110 Section 9 of the CA 1989 provides detail on the restrictions that apply when making a prohibited

steps order. Section 10 of the CA 1989 outlines the power of the court to make a prohibited steps order.

Victims' rights to make disclosures relating to criminal conduct

Common law protections

111 There is a general common law principle that the courts will not enforce a confidentiality clause where there is an overriding public interest in disclosure of the information purported to be protected. This means that there are circumstances, beyond specific statutory limitations, in which the courts will find an NDA to be unenforceable. Case law indicates that the courts are unlikely to enforce a confidentiality clause insofar as it seeks to prevent disclosures of information about criminal conduct to the police or appropriate regulatory or statutory bodies. While it is clear that protections exist at common law to prevent the misuse of NDAs for nefarious purposes, recent cases have demonstrated that victims of crime have been unaware of these protections and have therefore been effectively silenced by the use of NDAs. There has therefore been impetus for protections to be made statutory, to clarify through codification the protections available. Section 17 of the Victims and Prisoners Act 2024 Act ("the 2024 Act") is an example of legislation which to an extent codifies some of the common law principles, as it makes clear that an NDA cannot be legally enforced to the extent it seeks to prevent a victim of crime from making a disclosure to the police or other bodies that investigate and prosecute crime, for the purposes of allowing them to investigate or prosecute the crime.

Other protections

112 NDAs are also unenforceable if they seek to prevent an individual from doing anything that they are otherwise required to do by law, for example where required to give evidence to a court or tribunal, or make mandated disclosures to a regulator or the police.

113 The lawful use of NDAs is also limited by the criminal law. Their use could amount to a criminal offence if, by trying to stop an individual discussing with the police any criminal activity, it is an attempt by the other party to the NDA to: (i) pervert the course of justice, (ii) prevent the apprehension or prosecution of an offender; and/or (iii) conceal a criminal offence.

114 There are also existing protections for 'whistleblowing' in an employment context. Section 43J of the Employment Rights Act 1996 ("the 1996 Act") renders void any confidentiality clause in any agreement between a worker and their employer to the extent that it seeks to prevent a worker from making a protected disclosure, known as whistleblowing. For something to qualify as a protected disclosure, certain criteria specified in sections 43C to 43H of the 1996 Act must be met, including that the worker must hold a reasonable belief that reporting the wrongdoing is in the public interest. Under these provisions a worker is usually required to make the disclosure to their employer, legal adviser or a prescribed person. If a worker makes a protected disclosure that meets the criteria specified in the 1996 Act, the legislation outlines certain protections that are available to them. Under section 47B of the 1996 Act, a worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, done on the ground that the worker has made a protected disclosure, by their employer, another worker of their employer in the course of that other worker's employment, or by an agent of their employer with the employer's authority. Section 103A of the 1996 Act on protected disclosure provides that an employee who is 'dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure.'

115 The Higher Education (Freedom of Speech) Act 2023 introduced a prohibition on the use of confidentiality clauses in a higher education context. Section 1 of this Act introduces a new Part A1 on 'Protection of Freedom of Speech' to the Higher Education and Research Act 2017, which came into force on 1 August 2025. Under section A1(11), governing bodies of registered higher education providers are under a duty to secure that providers do not enter into NDAs with students, staff, members or visiting speakers where they come forward with a complaint of sexual misconduct, abuse or harassment, or any other form of bullying or harassment. Any such NDAs entered into on or after 1 August 2025 are void, and this legislation will continue to apply once the Victims and Courts Bill measure comes into force.

116 Section 17 of the 2024 Act, which the Victims and Courts Bill measure will repeal and replace, voids NDAs to the extent that they seek to prevent victims of crime, or those who reasonably believe they are a victim of crime, from making disclosures to certain specified bodies (including bodies that investigate and prosecute crime, lawyers and victim support services) for certain specified purposes related to the criminal conduct. Section 17 came into force on 1 October 2025 and applies to NDAs entered into on or after this date.

117 The Official Secrets Act 1989 (the "OSA") prohibits the disclosure of certain types of sensitive information (e.g. information related to security or intelligence or defence). The OSA will be unaffected by the Victims and Courts Bill measure. Disclosures that are prohibited under the OSA, including those relating to information gained through employment as a Crown servant or government contractor, will continue to be prohibited and the consequences that follow such a disclosure (for example, criminal offences) will continue to apply.

118 With the exception of repealing section 17 of the 2024 Act in relation to NDAs entered into on or after the date on which the Victims and Courts Bill measure is commenced, this measure does not affect the operation of the existing legal limitations on NDAs or disclosures of sensitive information including those provided for in the legislation set out above.

Victims' rights to make representations and receive information etc.

119 The Victim Contact Scheme (VCS) established by sections 35 to 45 of the DVCVA. Since April 2001, victims (or those who act for a victim) of a specified sexual, violent or terrorism offence, where the sentence is 12 months or more imprisonment, have a statutory right to make representations on licence conditions and supervision requirements and receive information as is appropriate in all circumstances of the case. The specified offences are:

a. Murder;

b. the sexual, violent and terrorism offence in Schedule 18 to the Sentencing Act 2020;

c. offences against a child within the meaning of Part 2 of the Criminal Justice and Court Services Act 2000; and

d. inchoate offences in respect of the above offences.

120 Eligible victims can elect to participate in the VCS at any point during the offender's sentence. Once the sentence the offender is serving in relation to the victim has ended, the victim is no longer eligible to receive any information about the offender under the VCS.

121 This legislative framework can be divided into four parts, each setting out victims' rights to information and to make representations. Where the offender is sentenced to imprisonment or detention, the provisions are set out in section 35.

122 Chapter 2 of Part 3 of the DVCVA sets out the entitlements of qualifying victims of mentally disordered offenders. They are limited to making representations about the conditions which affect them that should be attached to any discharge and are entitled to receive certain information. Information is either provided by Probation, or relevant hospital managers in the case of unrestricted patients.

123 Under Part III of the Mental Health Act 1983, orders can be imposed on mentally disordered offenders instead of, or in combination with, a sentence of imprisonment. There are different provisions in the DVCVA depending on the type of order imposed, for example where an offender is made subject to a hospital order (sections 36-38A), made subject to a hybrid order (sections 39-41A) and becomes subject to a transfer direction during their sentence of imprisonment (sections 42-45). It is necessary to have these different provisions for various detention types for each cohort as different bodies, for example the Parole Board, Secretary of State or Mental Health Tribunal, are responsible for decisions about their management (for example release, licence conditions, discharge) and those decisions are made through different processes.

124 Following conviction (or where an offender is otherwise found responsible for an offence), mentally disordered offenders can be detained in hospital under the authority of:

a. A hospital order (section 37) - where an offender is convicted of an imprisonable offence, a hospital order can be made by the court instead of imposing a sentence of imprisonment. A hospital order provides authority for the offender to be taken to a hospital and detained there (section 40(1)). There is no penal element to a hospital order, rather it diverts the offender away from the criminal justice system for treatment.

b. A transfer direction (section 47) – where an offender sentence to imprisonment becomes ill, the Secretary of State can make a transfer direction to move the offender to hospital. A transfer direction has the same effect as a hospital order in terms of authorising the detention.

c. A hybrid order (a hospital direction combined with a limitation direction) (section 45A) – where an offender is convicted of an imprisonable offence, and the court considers making a hospital order before ultimately deciding to impose a sentence of imprisonment, the court can give a hospital direction. A hospital direction means that, instead of being removed to a prison for his sentence, the offender is removed to a specified hospital.

125 'Restricted patients' are those subject to a restriction order or a restriction direction. A restriction order (section 41) is where the Crown Court, when making a hospital order under section 37 can also make a restriction order when it is necessary for the protection of the public from serious harm. When making a transfer direction under section 47, the Secretary of State can also make a restriction direction pursuant to section 49 which has the same effect as a restriction order. When a restriction order is imposed, the patient becomes subject to the special restrictions set out in section 41(3) of the Mental Health Act 1983. Offenders with no restriction order are unrestricted patients and are treated in a similar way to civil patients and are not subject to any oversight by Probation.

126 Section 37ZA of the DVCVA (which was inserted by the 2024 Act) provides that victims of restricted patients have a statutory right to make a victim impact statement to the First-Tier Tribunal or the Mental Health Review Tribunal for Wales when these bodies are considering discharging the patient or removing the restriction in accordance with the Mental Health Act 1983. This section came into force on 25 June 2025.

Victims' Commissioner

127 The Victims' Commissioner is a statutory appointment under section 48(1) of the DVCVA.

128 The existing functions of the Victims' Commissioner, as set out at section 49(1), are to:

a. promote the interests of victims and witnesses (section 49(1)(a));

b. take such steps as the Victims' Commissioner considers appropriate with a view to encouraging good practice in the treatment of victims and witnesses (section 49(1)(b)); and

c. keep under review the operation of the Victims' Code (section 49(1)(c)).

129 Once section 22(2)(a) of the 2024 Act is commenced, the duty in section 49(1)(c) will also include a duty to keep under review compliance with the duty contained in section 5(1) of the 2024 Act (which requires Code service providers to provide services in accordance with the Code unless there is a good reason not to).

130 The existing powers of the Victims' Commissioner, as set out at section 49(2), are to:

a. make proposals to the Secretary of State for Justice for amending the Victims' Code (at the request of the Secretary of State for Justice or at their own initiative);

b. make a report to the Secretary of State for Justice;

c. make recommendations to an authority within the Victims' Commissioner's remit; and

d. consult any person the Commissioner thinks appropriate.

131 As per section 53 of the DVCVA, the authorities within the Commissioner's remit are set out in Schedule 9 to the DVCVA.

Commissioner's power to act in individual cases relevant to public policy

132 Section 51 of the DVCVA places restrictions on the exercise of the Victims' Commissioner's functions ("the statutory bar"). They must not exercise their functions in relation to:

a. A particular victim or witness (section 51(a));

b. The bringing or conduct of particular proceedings (section 51(b));

c. Anything done or omitted to be done by a person acting in a judicial capacity or on the instructions of or on behalf of such a person (section 51(c)).

Duty to co-operate with Commissioner: anti-social behaviour

133 The Victims' Commissioner's functions outlined in section 49 of the DVCVA apply to victims and witnesses of crime and victims and witnesses of both criminal and non-criminal antisocial behaviour. Under these functions, the Commissioner must promote victims' and witnesses' interests and take such steps as they consider appropriate with a view to encouraging good practice in their treatment. The Commissioner must also keep under review the operation of the Victims' Code, which applies to victims of crime, including victims of criminal antisocial behaviour. Section 22(4) of the 2024 Act amended the DVCVA by inserting a new section 51A which sets out a duty on bodies responsible for providing Victims' Code services (including the police) to cooperate with the Commissioner in any way that the Commissioner considers necessary for the purposes of their functions. A body must comply with a request from the Commissioner if it is appropriate and reasonably practicable for them to do so.

134 Certain key agencies engaged with victims of antisocial behaviour (local authorities and social housing providers) do not fall under the duty to cooperate in the 2024 Act. The VAC Bill will introduce a duty on local authorities and social housing providers to cooperate with the Commissioner in any way that the Commissioner considers necessary for the purposes of their functions in respect of victims and witnesses of antisocial behaviour, provided it is appropriate and reasonably practicable to do so.

Duty of Commissioner to report on compliance with Victims' Code

135 The new Code compliance framework introduced in the 2024 Act provides for certain criminal justice bodies who are responsible for delivering the Code (the police, CPS, HMCTS, HMPPS and Youth Offending Teams (section 6(6)) to collect compliance data, share it locally and for the information to be fed into a national oversight framework. NB: as of March 2026, this framework has not yet been commenced. The duties set out at sections 6-10 of the 2024 Act will, once commenced, require the following:

a. Criminal justice bodies (defined in section 6(6)) must collect compliance information (prescribed in regulations) on whether and how they are providing services in accordance with the Code;

b. Compliance information will include victim feedback. The Secretary of State (in practice, the Secretary of State for Justice and the Home Secretary) and Attorney General will have a power to jointly direct certain criminal justice bodies to provide specified information to a third party for the purposes of enabling or assisting them to collect victim feedback (for example, through a survey);

c. Criminal justice bodies in a police area must share information collected on their Code compliance with one another and Police and Crime Commissioners (PCCs) and to review that information with those bodies and PCCs locally;

d. PCCs must share compliance information and reports from the local review about Code compliance with the Ministry of Justice; and

e. The British Transport Police and the Ministry of Defence Police, as non-territorial forces, must fulfil equivalent arrangements to monitor their compliance.

136 Section 11 covers national oversight mechanisms, which is the level the Commissioner will be involved in. For the purposes of section 11, 'Code compliance' means whether and how an agency provides Victims' Code services in accordance with the duty in section 5(1) (duty to provide services in accordance with the Code, unless there is a good reason not to). Section 11 will, once commenced, require:

a. The Ministry of Justice to publish Code compliance information shared by PCCs, the British Transport Police Authority and the Ministry of Defence Police that will allow members of the public to assess criminal justice agencies' Code compliance (section 11(5)).

b. Ministers (in practice the Secretary of State for Justice, Home Secretary and Attorney General acting jointly) to prepare and publish an annual report on Code compliance, which they must consult the Commissioner on before publishing (sections 11(1) and (4)). The VAC Bill will remove the requirement for Ministers to consult the Commissioner on their report, as Victims' Commissioner input in the Code compliance framework will now be achieved through their own independent report on Code compliance. Ministers will be placed under a duty to have regard to the Victims' Commissioner's report when producing their own report.

c. Ministers (in practice the Secretary of State for Justice, Home Secretary and Attorney General acting jointly) may issue a notice (a 'non-compliance notification') to an agency if they consider the criminal justice agency's Code compliance to be unsatisfactory, which they must consult the Commissioner on before issuing (sections 11(2) and (4)).

137 To support this framework, the Victims' Commissioner's functions in the DVCVA in relation to the Code will be amended by s22(2)(a) in the 2024 Act (once commenced), by specifying that their function is to "oversee the operation of the Code, including the extent to which the section 5 duty in the Act is being complied with".

Prosecutions

Appointment of Crown Prosecutors

138 Under section 1(3) of the Prosecution of Offences Act 1985 ("the 1985 Act"), the DPP can designate a person who is a member of the CPS and has a 'general qualification' to be a CP. Under Section 5(1) of that Act, the DPP can appoint a person who is not a CP, but who has a general qualification, to institute or take over the conduct of such criminal proceedings or extradition proceedings as the DPP may assign to them. A person has a 'general qualification', as defined in section 71(3)(c) of the Courts and Legal Services Act 1990, where they have rights of audience in relation to any class of proceedings in any part of the Senior Courts (the Court of Appeal, the High Court of Justice and the Crown Court), or all proceedings in county courts or magistrates' courts.

139 The Legal Services Act 2007 ("the LSA 2007") controls the carrying out of 'reserved legal activities', which are defined in section 12 of that Act and include exercising rights of audience and conducting litigation. Under section 13 of that Act, only an authorised person or an exempt person is entitled to carry on a reserved legal activity, and it is an offence to do so without entitlement (sections 14 to 17 of the LSA 2007). Approved Regulators, defined in section 20(2)(a) of the LSA 2007 and listed in Schedule 4 to that Act, are entitled to authorise persons to carry on reserved legal activities. The Law Society, the General Council of the Bar, the Chartered Institute of Legal Executives, the Chartered Institute of Patent Attorneys, the Institute of Trademark Attorneys and the Association of Law Costs Draftsmen are all approved regulators. Individuals seeking to become authorised must comply with the qualification and professional standards set by the Approved Regulators (or rather, more commonly, their delegated independent regulatory bodies, like the Solicitors Regulation Authority and the Bar Standards Board).

140 Exemptions from authorisation requirements are set out in Schedule 3 to the LSA 2007, and include where another enactment has granted a right of audience or right to conduct litigation to an individual. Sections 1 and 5 of the 1985 Act grant such a statutory exemption to CPs and appointed persons, though this is limited in effect by the fact that the 1985 Act also requires such individuals to have a general qualification. Barristers who are designated as CPs under section 1 of the 1985 Act, or are appointed persons under section 5, can currently rely on this exemption to do the reserved legal activity of conducting litigation.

Private prosecutions: regulations about costs payable out of central funds

141 Section 17 of the 1985 Act allows a company or individual bringing a private prosecution to seek a costs order. It provides for the Court to order the payment from central funds of 'such amount as the court considers reasonably sufficient to compensate the prosecutor for any expenses properly incurred by him in the proceedings.'

142 The Court may fix the amount to be paid or may instead refer the matter to a determining officer,

who will assess claims for prosecutor expenses. Such determining officers are appointed by the Lord Chancellor and are employed by the LAA in a team called the Complex Crime Unit (CCU).

143 As the Lord Chancellor is not presently accorded with powers under the 1985 Act to set remuneration rates for private prosecutions, the assessment of the reasonableness of the expenses incurred falls to the Court and the CCU. This is an assessment open to challenge by way of an appeal to a Costs Judge in Crown Court cases, or Judicial Review in magistrates' court cases. By enabling the Lord Chancellor to set rates, this measure will bring clarity to private prosecutors on the rates that are recoverable, while also reducing court time by eliminating protracted cost negotiations.

144 By matter of convention, the LAA uses the SCCO guideline hourly rates as the starting point for assessing market rates for private prosecutions, and the case law has supported this approach. However, even with the SCCO guidelines, the lack of prescribed rates makes assessment of reasonableness a subjective and imprecise enterprise. Furthermore, SCCO guidelines are no longer considered appropriate for the reasons discussed above.

145 This Bill will therefore extend the Lord Chancellor's power in section 20(1A) of the 1985 Act, to enable regulations to be made which set out the amounts that may be paid to a private prosecutor. This power is similar to the Lord Chancellor's existing power in section 20(1A) of 1985 Act to make regulations as to the amounts that may be paid to a defendant under a Defendant's Costs Order.

146 Regulations made by the Lord Chancellor under this power will prescribe the rates payable to private prosecutors. Existing provisions in the 1985 Act provide for a discretion to allow enhancements to such rates, for example where a case is particularly complex, or with consideration to the care, speed, or novelty of the case.

147 This measure introduces an enabling power only, and not the regulations setting out the relevant rates. Regulations setting out the rates will be introduced at a later date, after the Bill has come into force and after full consultation with relevant stakeholders has taken place.

Sentencing reviews etc

Reviews of sentencing: time limits

148 This clause amends Schedule 3 to the Criminal Justice Act 1988, which sets out the current time limit of 28 days from the date of sentencing for the Attorney General to apply for leave to refer a sentence to the Court of Appeal as unduly lenient. The amendments provide for an extended time limit where the Attorney General receives a request to review the sentence of a person within the last 14 days of the current 28-day period.

Terms of imprisonment for certain offences on summary conviction

149 This measure changes the maximum term of imprisonment for six specific offences, on summary conviction, from "6 months" to "the general limit in a magistrates' court". It therefore brings these six offences in line with all other triable either-way offences.

150 This clause will amend the following legislation:

151 Section 1(6)(a) of the Prevention of Social Housing Fraud Act 2013 (unlawful sub-letting: secure tenancies);

152 Section 2(7)(a) of the Prevention of Social Housing Fraud Act 2013 (unlawful sub-letting: assured tenancies and secure contracts);

153 Section 30(3)(b) of the Modern Slavery Act 2015 (breach of various orders or requirements under

this Act);

154 section 339(2)(a) of the Sentencing Code (breach of criminal behaviour order);

155 Section 354(4)(a) of the Sentencing Act 2020 (breach of a sexual harm prevention order); and

156 Section 363(2)(a) of the Sentencing Act 2020 (breach of a restraining order).

Territorial extent and application

157 Clauses 1-14 of the Bill extend and apply to England and Wales with the exception of clauses 2 and 13.

158 Clause 2 contains provisions related to the measure for ordering attendance at sentencing hearings which apply to the armed forces. Those provisions extend to England and Wales, Scotland, Northern Ireland, the Isle of Man and the British Overseas Territories (except Gibraltar), and may be extended to the Channel Islands by Order in Council. It applies to armed forces personnel and civilians subject to service discipline wherever they are in the world.

159 Additionally, the legislation being amended by the reviews of sentencing measure (clause 13) extends and applies to Northern Ireland and England and Wales. As such, clause 13 has the same extent but does not apply to NI and therefore has no impact there. Criminal proceedings are devolved to NI, but as this change has no impact there the Legislative Consent Motion process is not engaged.

160 Clauses 15-18 of the Bill (General) extend and apply to England and Wales, Scotland and Northern Ireland.

161 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions.

Commentary on provisions of Bill

Attendance at Sentencing Hearings

Clause 1: Powers to compel attendance at sentencing hearings

162 Clause 1 inserts new sections 41A and 41B into a new Chapter 2A within Part 3 of the Sentencing Code (Procedure). New section 41A makes provision for a judge of the Crown Court to order an offender to attend their sentencing hearing and states that any offender commits a contempt of court if, when the court has made such an order, they fail without reasonable excuse to attend.

163 New subsection (1)(a)(b) and (c) of section 41A set out the conditions under which the order can be made. These are that an offender has been convicted of an offence; the offender is to be detained in custody while awaiting sentencing in the Crown Court; and the offender has refused to attend their sentencing hearing or there are reasonable grounds to suspect that he or she will refuse.

164 New subsection (2) states that the Crown Court may make such an order if the conditions of subsection (1) are satisfied.

165 New subsection (3) states that an order under subsection (2) may be made by the court of its own motion or following an application by the prosecuting authority.

166 New subsection (4) prohibits the court from making such an order in relation to an offender under the age of 18 without having first consulted the relevant youth offending team.

167 New subsection (5) clarifies that a relevant officer may use reasonable force to give effect to an order made under subsection (2) and deliver an offender aged 18 or over to the courtroom.

168 New subsection (6) states that an offender's failure to comply with an order made under subsection (2) without reasonable excuse is a criminal contempt of court.

169 New subsection (7) defines the meaning of the terms, "relevant officer", "relevant youth offending team" and "sentencing hearing" as they apply to this provision. "Relevant officer" means a prison officer, an officer of a young offender institution or a prisoner custody officer (within the meaning of section 89 of the Criminal Justice Act 1991). "Relevant youth offending team" means the youth offending team established under section 39 of the Crime and Disorder Act 1998 that is providing support to the offender while he or she is awaiting sentence. "Sentencing hearing" means a hearing for the purposes of sentencing the offender following conviction.

170 New subsection (8) clarifies, for the avoidance of doubt, that this provision does not limit any other power available to the court to order the attendance of an offender for their sentencing hearing, any part of the law of contempt or any other power of a relevant officer to use force.

171 New section 41B makes provision for and explains the meaning of a "prison sanctions order".

172 New subsection (1)(a), (b), (c) and (d) sets out the conditions needed to be met before a court can consider making a "prison sanctions order". These conditions are that an order under section 41A has been made, the offender has committed a contempt by breaching an order made under section 41A as mentioned in section 41A(6), or has committed a contempt by interrupting or otherwise misbehaving in the hearing and been removed from the hearing because of such conduct; the offender is aged 18 or over at the time at which the contempt is committed; and the offender is sentenced to a term of imprisonment or detention for either the offence being sentenced or committed for the contempt.

173 New subsection (2) confirms the power to impose prison sanctions may be used instead of or in addition to any other power available to the court in dealing with the contempt matter.

174 New subsection (3)(a) and (b) sets out the parameters for imposing a prison sanctions order on a person aged between 18 and 20. An order can be made in relation to an offender who is aged 18 or over who is taken to a prison or young offenders institution provided exclusively as a place of detention for persons aged 18-20 after the order is made.

175 New subsection (4)(a) and (b) defines the meaning of a "prison sanctions order" as an order imposing one or more of the sanctions as described by regulations made by the Secretary of State and in so doing provides the power to make those regulations. It also requires the court to specify a period not exceeding the maximum period as defined by those regulations.

176 New subsection (5) limits the sanctions that may be specified in regulations to those which correspond with punishments available under prison rules for an offence against discipline. This means that existing punishments in the prison rules will provide a list from which punishments can be selected for the purposes of these regulations. Not all existing punishments will be appropriate for use in this context.

177 New subsection (6) states that the regulations must specify a maximum period for which a sanction may apply, only if the corresponding punishment in the prison rules has a maximum period.

178 New subsection (7) states that the maximum period set by regulations must not exceed the corresponding maximum period for that sanction as set out in the prison rules.

179 New subsection (8) states that the regulations may make further provision as to the effect of a sanction imposed by a prison sanctions order.

180 New subsection (9) (a) and (b) sets out that in particular, the regulations made by subsection (8) may create exceptions or confer a discretion on the governor of the prison or young offenders institution in which the person is being detained. It is intended that this will be used to permit the governor to override the order in exceptional circumstances, for example, where it is considered necessary for health, safety and operational reasons.

181 New subsection (10) confirms that regulations made under this section are subject to the affirmative resolution procedure.

182 New subsection (11) defines the meaning of "governor" in relation to a prison or youth offender institution, includes a director of the prison or institution, the meaning of "prison" as having the same meaning as in the Prison Act 1952 and the meaning of "prison rules" as being the same as rules made under section 47 of the Prison Act 1952.

Clause 2: Powers to compel attendance at sentencing hearing: armed forces

183 Clause 2 makes equivalent provision for the service justice system by inserting new section 259A into the Armed Forces Act 2006.

184 New section 259A enables the Court Martial or Service Civilian Court to order an individual to attend their sentencing hearing by creating an express statutory power to make an attendance order. Any individual who refuses to attend, without reasonable excuse, will commit a contempt of court under section 309 of the Armed Forces Act 2006. They may therefore be punished by the Court Martial or Service Civilian Court through a fine or a committal to Service Custody. Where an adult is sentenced to imprisonment or detention, a prison sanctions order may be imposed in respect of a contempt of court. Alternatively the court may, as now, certify a civil court to inquire into the contempt of court under section 311 of the Armed Forces Act 2006. New section 259A also makes it clear that a person subject to service law who is authorised by the Provost Marshal for the Royal Military Police may use reasonable force if necessary and proportionate to produce an adult to court for their sentencing hearing.

Restricting parental responsibility

Clause 3: Restricting parental responsibility of certain sex offenders

185 Clause 3 amends the Children Act 1989 ("the 1989 Act") to expand the offences where the Crown Court must make a prohibited steps order to include where a person is convicted of a serious child sexual abuse offence and has been sentenced to an immediate custodial sentence of four or more years. The prohibited steps order, which is an order under section 8 of the 1989 Act, must be made in respect of every child for whom the offender holds parental responsibility.

186 Subsection 1 makes provision for the Bill to insert new sections 10C and 10D into the 1989 Act.

187 New section 10C in the 1989 Act covers the requirement for the Crown Court to make a prohibited steps order:

a. New subsection (1) of 10C clarifies the section applies when the Crown Court sentences an offender, who has parental responsibility for a child to a life sentence, or a term of four or more years imprisonment or detention, for a serious sexual offence committed against a child.

b. New subsection (2) states that the Crown Court must make a prohibited steps order for each child for whom the offender holds parental responsibility when sentencing the offender.

188 New subsection (3) provides that the prohibited steps order must restrict the exercise of parental responsibility to prevent the offender taking any step in exercise of their parental responsibility without the consent of the High Court or Family Court and that the order remain in effect unless it is varied or discharged by the High Court or Family Court.

a. New subsection (4) outlines the circumstances in which the Crown Court must not make a prohibited steps order. An order must not be made if there is a placement order in force such that the making of a prohibited steps order is prohibited by section 29(3) Adoption and Children Act 2002, or where such an order is not needed because a prohibited steps order is already in place that provides that no steps could be taken in exercise of a parent's parental responsibility, or where it would not be in the interests of justice for the prohibited steps order to be made.

b. New subsection (5) provides that the prohibited steps order will not automatically end where the offender is acquitted on appeal or receives a reduction in sentence so that it no longer meets the threshold in subsection (1).

189 New subsection (6) makes clear that, where the Crown Court is undertaking the duty placed on it by section 10C and in the context of the Crown Court's discretion in subsection (5), it should not apply the following sections of the 1989 Act:

190 Section 1, which covers the elements the court must include in its consideration of a child's welfare, which must be the court's paramount consideration.

191 Section 7, which gives the court the power to commission the Children and Family Court Advisory and Support Service (Cafcass), Cafcass Cymru or local authority social workers to deliver reports on the child's welfare.

192 Section 11, which covers a series of general provisions relating to s.8 orders, including provisions relating to timetabling and the content of the orders.

193 New subsection (7) provides that the prohibited steps order made by the Crown Court is to be treated as an order of the Family Court for the purposes of section 31F(6) of the Matrimonial and Family Proceedings Act 1984 (which gives the Family Court the power to vary, suspend, rescind or revive any order of the Family Court).

194 New subsection (8) provides that the Crown Court cannot hear applications for the enforcement of the prohibited steps order made under new Section 10C (these will be heard by the Family Court).

195 New subsection (9) provides that where context permits, any reference in 1989 Act to an order made under Section 10C also includes an order varying or discharging such an order.

196 New subsection (10) provides definitions of terms used within Section 10C and introduces Schedule ZA1:

a. A "life sentence" is where an offender is sentenced to imprisonment, detention or custody for life, or during His Majesty's Pleasure.

b. A "serious sexual offence" refers to any offence listed within Schedule ZA1.

197 New subsection (11) provides the Secretary of State with a power to amend the list of offences in Schedule ZA1 by regulations.

198 New section 10D confirms details of a new duty that will be placed on the local authority:

a. New subsection (1) confirms that section 10D applies when an individual subject to a prohibited steps order made under section 10C is either acquitted of the offence on appeal or has their sentence reduced on appeal, so their term of imprisonment is no longer 4 years or more.

199 New subsection (2) confirms that when subsection (1) is met, the relevant local authority must make an application to the Family Court to review the prohibited steps order. The court is defined as in section 92(7) of the 1989 Act as the High Court or the Family Court. When both the Family Court and the High Court have jurisdiction to deal with a matter, the general rule is that proceedings must be started in the Family Court. This is outlined in Rule 5.4 of the Family Procedure Rules 2010.

200 New subsection (3) provides that an application to the Family Court must be made by the relevant local authority as soon as reasonably practicable, and must be made within 30 days after the day after the day the verdict of acquittal was entered or the sentence was reduced.

a. Subsection (4) provides the Secretary of State the power to amend by regulations the 30-day period specified in subsection (3).

b. New subsection (5) defines "life sentence" as the same as subsection (9) of section 10C (as per paragraph 149j of this document). This subsection defines the 'relevant local authority' as the local authority within whose area the child(ren) involved are ordinarily resident or the local authority within whose area the child(ren) are present. If there is no local authority which fits this description, no duty arises. Nothing in this subsection affects the law applicable to whether the court has jurisdiction to make any orders as a result of the review.

201 Subsection (2) of Clause 3 notes that Schedule 1 of this Act inserts a schedule into the 1989 Act setting out the serious sexual offences for the purposes of new section 10C(1).

202 The provisions in Clause 3 will come into force by regulations made on a day appointed by the Secretary of State.

Schedule 1: Restriction of parental responsibility: Serious Sexual Offences

203 Paragraph 1 of Schedule 1 to the Bill inserts Schedule ZA1 into the Children Act 1989 ("the 1989 Act"). The Schedule provides for a list of offences which for the purposes of new Section 10C of the 1989 Act are to be deemed serious sexual offences.

204 Sub-paragraphs 1 to 4 of New Schedule ZA1 provide the list of offences. Where an offender is sentenced to an immediate custodial sentence of four or more years for an offence listed within this Schedule, they will be in scope of New Sections 10C of the 1989 Act.

Clause 4: Restriction of parental responsibility for child conceived as a result of rape

205 Clause 4 makes provision to insert new sections 10E, 10F and 10G into the Children Act 1989 ("the 1989 Act"). These new sections require the Crown Court to make a prohibited steps order restricting the exercise of parental responsibility for offenders convicted of rape where a child was conceived of that rape. The prohibited steps order, which is to be treated as an order under section 8 of the 1989 Act, must be made in respect of every child conceived of rape only.

206 New section 10E in the 1989 Act covers the requirement for the Crown Court to make a prohibited steps order:

a. New subsection (1) of 10E clarifies the section applies when the Crown Court

sentences an offender for rape, and is satisfied that a child was conceived of that rape for whom the offender has parental responsibility.

b. New subsection (2) states that the Crown Court must make a prohibited steps order when sentencing the offender.

207 New subsection (3) provides that the prohibited steps order must restrict the exercise of parental responsibility for the child conceived of rape to prevent the offender taking any step in exercise of their parental responsibility without the consent of the High Court or Family Court. The order will remain in effect unless it is varied or discharged by the High Court or Family Court.

a. New subsection (4) outlines the circumstances in which the Crown Court must not make a prohibited steps order. An order must not be made if there is a placement order in force such that the making of a prohibited steps order is prohibited by section 29(3) Adoption and Children Act 2002, or where such an order is not needed because a prohibited steps order is already in place that provides that no steps could be taken in exercise of a parent's parental responsibility or where it would not be in the interests of justice for the prohibited steps order to be made.

b. New subsection (5) provides that the prohibited steps order will not automatically end where the offender is acquitted on appeal.

208 New subsection (6) makes clear that where the Crown Court is undertaking the duty placed on it by section 10E), it should not apply the following sections of the 1989 Act:

a. Section 1, which covers the elements the court must include in its consideration of a child's welfare which must be the court's paramount consideration.

b. Section 7, which gives the court the power to commission the Children and Family Court Advisory and Support Service (Cafcass), Cafcass Cymru or local authority social workers to deliver reports on the child's welfare.

c. Section 11, which covers a series of general provisions relating to s.8 orders, including provisions relating to timetabling and the content of the orders.

209 New subsection (7) provides that the prohibited steps order made by the Crown Court is to be treated as an order of the Family Court for the purposes of section 31F(6) of the Matrimonial and Family Proceedings Act 1984 (which gives the Family Court the power to vary, suspend, rescind or revive any order of the Family Court).

210 New subsection (8) provides that the Crown Court cannot hear applications for the enforcement of the prohibited steps order made under new Section 10E (these will be heard by the Family Court).

211 New subsection (9) provides that where context permits, any reference in the 1989 Act to an order made under Section 10E also includes an order varying or discharging such an order.

212 New Section 10F confirms the process where the Crown Court considers a child may have resulted from rape:

a. New subsection (1) of 10F confirms that section 10F applies when:

a. An individual is sentenced for the offence of rape

b. The Crown Court is satisfied that there is a child for whom the offender has

parental responsibility

c. The Crown Court considers that the child may have been conceived as a result of that rape

d. Section 10E does not apply (the Crown Court is not satisfied that the child was conceived of that rape)

b. New subsection (2) confirms that when subsection (1) is met, the Crown Court must notify the relevant local authority of the matter.

c. New subsection (3) confirms that this notification must take place within 30 days of the day after sentencing the offender.

213 New subsection (4) confirms that the local authority has 6 months from the day after the notification in which to seek consent to apply to the Family Court to determine whether to make a section 8 order. This consent must be from the victim of rape or, if the victim is deceased, any person with parental responsibility for the child other than the offender. The court is defined as in section 92(7) of the 1989 Act as the Family Division of the High Court or the Family Court. When both the Family Court and the High Court have jurisdiction to deal with a matter, the general rule is that proceedings must be started in the Family Court. This is outlined in Rule 5.4 of the Family Procedure Rules 2010.

214 New subsection (5) confirms that if consent is given the local authority has 30 days from the day after the consent is received in which to apply to the Family Court.

215 New subsection (6) confirms that the local authority does not have to seek consent or apply to the Family Court if it is satisfied that the Family Court would not have jurisdiction to make a section 8 order.

a. New Subsection (7) provides the Secretary of State with the power to amend, by regulations, the time periods outlined in subsections (3), (4) and (5).

b. New subsection (8) defines the 'relevant local authority' as the local authority within whose area the child(ren) involved are ordinarily resident or the local authority within whose area the child(ren) is present. If there is no local authority which fits this description, no duty arises.

216 New section 10G confirms the process following an acquittal on appeal:

a. New subsection (1) confirms that section 10G applies when an individual subject to a prohibited steps order made under section 10E or any order made as a result of a s.10F application is acquitted of the offence on appeal.

217 New subsection (2) confirms that when subsection (1) is met, the relevant local authority (as defined in new section 10G(5)) must make an application to the Family Court to review the relevant order The court is defined as in section 92(7) of the 1989 Act, an explanation of this is provided at paragraph (d) of new section 10F of these notes.

218 New subsection (3) provides that an application to the Family Court must be made by the relevant local authority as soon as reasonably practicable, and must be made within 30 days from the day after the day the verdict of acquittal is entered.

a. New subsection (4) provides the Secretary of State with the power to amend by regulations the 30-day period specified in subsection (3).

b. New subsection (5) defines "relevant local authority" for the purposes of new section 10G. This definition is the same as in new section 10F(8).

Clause 5: Section 3 and 4: consequential amendments

219 Clause 5 makes consequential amendments to the Children Act 1989 ("the 1989 Act"), the Victims and Prisoners Act 2024 and the Sentencing Code to reflect the changes provided for by Clause 3 and 4.

220 Subsection (1) states that the 1989 Act is amended via subsections (2) to (8) of Clause.

221 Subsection (2) amends section 8(3) of the 1989 Act so that Crown Court proceedings under new section 10C and 10E are not considered family proceedings for the purposes of the 1989 Act.

222 Subsection (3) amends the following subsections of section 9 of the 1989 Act to remove certain restriction on making a prohibited steps order namely:

a. Subsection (1) is amended to ensure a prohibited steps order can be made for a child in the care of a local authority under new section 10C or 10E.

b. Subsection (6A) is amended so that an order made under new section 10C or 10E can be in place after a child reaches 16 without the need for the court to be satisfied that the circumstances are exceptional.

c. Subsection (8) is amended so that a court can make an order under new section 10C or 10E if a child is 16 or older.

223 Subsection (4) makes amendments to section 10A of the 1989 Act (which was inserted by section 18 of the Victim and Prisoners Act 2024)

a. The heading of section 10A is amended to "the duty to make a prohibited steps order where one parent kills another".

224 New subsection 10 is inserted to provide that, where permitted, any reference in the 1989 Act to an order made under Section 10A also includes an order varying or discharging such an order.

225 Subsection (5) amends section 10B of the 1989 Act (which was inserted by section 18 of the Victims and Prisoners Act 2024) to add "(if any)" to make it clear that the obligation on the local authority to make an application under section 10B(2) only arises if a local authority within the definition at section 10B(7) exists at the time the prohibited steps order is made.

226 Subsection (6) amends section 33(3A) of the 1989 Act (which was inserted by section 18 of the Victims and Prisoners Act 2024) so that, when a local authority has the power to decide how an offender can use their parental responsibility, the local authority may only use this power in order to stop them from taking steps that are not already prohibited by the prohibited steps order made under new section 10C and 10E.

227 Subsection (7) amends section 91 of the 1989 Act as follows:

a. Changes have been made for subsection (2) to provide that, if a care order is made after the making of a prohibited steps order under new section 10C or 10E, that order made under new section 10C or 10E will not be discharged as would be the case for other section 8 orders.

b. New subsection 14A is inserted so that any reference in subsection 14 of section 91 and section 91A(5)(a)(iii) to the disposal of an application includes an application under sections 10B, 10D, 10F, 10G.

228 Subsection (8) amends the provisions in the 1989 Act in relation to the powers to make regulations under the Act consequential on the new sections 10B(6), 10C(11), 10D(4), 10F(7) or 10G(4).

229 Subsection (9) provides that a prohibited steps order made by the Crown Court under section 10C

or 10E does not fall within the definition of a "sentence" for the purposes of section 50 of the Criminal Appeals Act 1968 and cannot therefore be appealed by the offender through the Crown Court. The question of whether the prohibited steps order should remain in place or be varied or discharged will be considered by the Family Court. This could be via the usual process when applying to the Family Court to vary or discharge a prohibited steps order, or as a result of an application being made by the local authority under the duty placed on them in new section 10D(2) or 10G(2) of the 1989 Act.

230 Subsection (10) amends section 379 of the Sentencing Act 2020 to include a signpost to the circumstances in which the Crown Court may be required to make a prohibited steps order when dealing with an offender under new sections 10A, 10C or 10E of the 1989 Act.

Non-Disclosure Agreements

Clause 6: Victims' rights to make decisions relating to criminal conduct

231 Clause 6 repeals section 17 of the Victims and Prisoners Act 2024 and replaces it with a new provision.

232 Subsection (1) voids the part of any agreement that purports to preclude a victim of crime (as defined in section 1 of the Victims and Prisoners Act 2024), or a person who reasonably believes they are a victim of crime, from making:

a. An allegation of, or disclosure of information about relevant criminal conduct (subsection 1(a)), or

b. An allegation of, or disclosure of information about the other party's response to the relevant criminal conduct or to the allegation or disclosure of same (subsection 1(b)).

c. This means a confidentiality clause could not be legally enforced against a victim for making an allegation or disclosure within subsection (1)(a) and (b).

233 Subsection (2) provides that subsection (1) does not apply to provisions in agreements which satisfy conditions that the Secretary of State specifies in regulations. These are known as "excepted agreements".

234 Subsection (3) sets out that the Secretary of State can also specify in regulations that any provision in an "excepted agreement" will still be void to the extent that it purports to preclude the victim, or the person who reasonably believes they are a victim, from making a more limited type of disclosure: -

a. To a specified description of person;

b. To a specified description of person;

c. In specified circumstances.

235 Both powers to make regulations are subject to the affirmative resolution procedure.

236 Subsection (4) provides that nothing in this section affects the application of any other enactment or rule of law under which a term in an agreement may be rendered void. This ensures that the existing protections for disclosures, and limitations on disclosure of certain information (e.g. security information under the Official Secrets Act 1989) will continue to operate.

237 Subsection (5) provides that, subject to subsections (6), (7) and (8), this section binds the Crown.

238 Subsection (6) makes clear that this section does not apply to agreements entered into by His Majesty in his private capacity. This includes agreements entered into by or on behalf of His Majesty in that capacity.

239 Subsection (7) and (8) set out exceptions for specified agreements for national security reasons. Subsection (7) provides that the section does not apply to agreements entered into by the Crown for the purposes of the Security Service, Secret Intelligence Service or Government Communications Headquarters.

240 Subsection (8) provides that the section does not apply to agreements between the Crown and a member of the special forces which govern the disclosure of information relating to the work of the special forces.

241 Subsection (9) defines "relevant criminal conduct" as conduct by virtue of which the person making the allegation or disclosure is, or reasonably believes they are, a victim as defined in section 1(1) and (2) of the Victims and Prisoners Act 2024.

242 It clarifies that "special forces" means those units of the armed forces of the Crown the maintenance of whose capabilities is the responsibility of the Director of Special Forces or which are for the time being subject to the operational command of that Director. Subsection (9) also clarifies that "specified" means specified in the regulations.

Victims' rights to make representations and receive information etc.

Clause 7: Victims' rights to make representations and receive information etc

243 Clause 7 inserts new clause "Victims' rights to make representations and receive information etc." introducing Schedule 2 which provides for all the amendments to the Domestic Violence, Crime and Victims Act 2004 to alter the routes available for victims to receive information about an offender's release while they are serving their sentence.

Schedule 2: Victims' rights to make representations and receive information etc

244 This Schedule amends the Domestic Violence, Crime and Victims Act 2004 ("DVCVA") to increase the cohort of victims eligible for the Victim Contact Scheme who have a statutory right to make representations and receive information in relation to offenders convicted of serious offences. It also provides a new route for victims to request information relating to release, discharge and leave under section 17 of the Mental Health Act 1983.

245 It is divided into several Parts. Part 1 updates the current legislation to expand the current Victim Contact Scheme and Part 2 provides for information to be provided to eligible victims on request where appropriate which will be delivered by way of the Victim Helpline. Part 3 provides the general powers for probation. Part 4 provides for the list of offences that apply to the scheme and Part 4 provides for consequential changes to the interpretation section and a new powers to alter the list of offences in Part 3 and to specify duration of the term of imprisonment for the specified sentence length generally, or in relation to particular offences which determine eligibility for the Victim Contact Scheme or Victims Helpline.

Part 1 – Representations and Information

Introduction

246 Paragraph 2 re-organises the DVCVA so chapter 2 of Part 3 (representations and information) becomes chapter 1 of new Part 3A (Victims' rights to make representations and receive information) and renames chapter 3 of Part 3 as part 3B (other matters relating to victims etc).

Imprisonment or detention

247 Paragraph 3 amends section 35 (victims' rights to make representations and receive information).

248 Paragraph 3(2) substitutes subsection (1) of section 35 (victims' rights to make representations and receive information) as it applies in England and Wales to broaden the cohort of victims to whom

section 35 applies.

249 Paragraphs 3(3), (4), (6) and (8) update obsolete references for probation.

250 Paragraph 3(5) substitutes section 35(5) expanding the definition of "information" to include information about when a victim might be released, when probation is ascertaining the information a victim wants to receive under section 35(3).

251 Paragraph 3(7) substitutes section 35(7) and provides the list of information that a victim can receive where the provider of probation services deem that to be appropriate.

Hospital Orders

252 Paragraph 4 amends section 36 (victims' rights: preliminary).

253 Paragraph 4(2) substitutes the previous list of offences listed in section 36(2) with an expanded offence list under Schedule 6A.

254 Paragraph 4(3) and (4) update obsolete references for probation in section 36.

255 Paragraph 4(5) substitutes section 36(6) and provides the list of information that a victim can receive if considered appropriate.

256 Paragraph 5 amends section 36A (supplemental provision for case where no restriction order made).

257 Paragraphs 5(2) and (4) to (6) update obsolete references to probation.

258 Paragraph 5(3) substitutes section 36A(3) and requires probation to take reasonable steps to provide information about the victim's wishes to the hospital managers and inserts new section 3A which provides that probation may notify a victim of the name and address of the hospital.

259 Paragraph 6 amends section 37 (representations where restriction order made) to update obsolete references to probation.

260 Paragraph 6(4) amends section 37(5)(b) to include a reference to section 75 of the Mental Health Act 1983.

261 Paragraph 7 amends section 37ZA (victim impact statements where restriction order made) to update obsolete references to probation.

262 Paragraph 8 amends section 37A (representations where restriction order not made).

263 Paragraph 8(2) amends section 37A to provide for managers of the relevant hospital to provide to probation the information a victim is entitled to receive if appropriate.

264 Paragraph 8(3) inserts new subsection (8A) which provides a duty for probation to pass on any information received from managers of the relevant hospital to the relevant victim.

265 Paragraph 9 amends section 38 (information where the restriction order made).

266 Paragraphs 9(2), (4), (6) to (8) amend section 38 to update obsolete references to probation.

267 Paragraph 9(3) amends section 38(3) to expand the list of information that a victim may receive if considered appropriate.

268 Paragraph 9(3) amends section 38(5)(b) to include a reference to section 75 of the Mental Health Act 1983.

269 Paragraph 10 amends section 38A (information where restriction order not made).

270 Paragraph 10(2) amends section 38A to expand the list of information a clinician must pass to a

hospital manager.

271 Paragraph 10(3) amends section 38A expand the list of information a victim may receive if considered appropriate.

272 Paragraph 10(4) inserts new subsection (7A) which provides a duty for probation to pass on any information received from managers of the relevant hospital to the relevant victim.

273 Paragraph 11 amends section 38B (removal of restriction).

274 Paragraphs 11(2) and (4) update obsolete references to probation.

275 Paragraph 11(3) provides that probation must take all reasonable steps to notify the hospital managers of an address where a victim may be contacted and inserts new section 3A which provides that probation may notify a victim of the name and address of the hospital.

Hospital Directions

276 Paragraph 12 amends section 39 (victims' rights: preliminary).

277 Paragraph 12(2) broadens the previous list of offences to which section 39 applied.

278 Paragraphs 12(3) and (4) update obsolete references to probation.

279 Paragraph 12(5) amends section 39(4) to expand the list of information that a victim may receive of considered appropriate.

280 Paragraph 13 amends section 40 (representations).

281 Paragraphs 13(2) to (5) and (7) update obsolete references to probation.

282 Paragraph 13(4)(b) also amends section 40(5)(b) to include a reference to section 75 of the Mental Health Act 1983.

283 Paragraph 13(6) amends section 40(7) to provide that probation can only provide the information where appropriate to do so.

284 Paragraph 14 amends section 41 (information).

285 Paragraphs 14(2), (4) and (6) to (8) update obsolete references to probation.

286 Paragraph 14(3) adds to the list of information a victim may receive if considered appropriate.

287 Paragraph 14(4) adds to the list of information that the Secretary of State must provide to Probation.

288 Paragraph 15 amends section 41A (removal of restriction).

289 Paragraphs 15(2) and (4) update obsolete references to probation.

290 Paragraph 15(3) provides that probation must take all reasonable steps to notify the hospital managers of an address where a victim may be contacted and inserts new section 3A which provides that probation may notify a victim of the name and address of the hospital.

Transfer Directions

291 Paragraph 16 amends section 42 (victims' rights: preliminary).

292 Paragraph 16(2) substitutes the previous list of offences listed in section 42(1) with an expanded offence list under Schedule 6A.

293 Paragraphs 16(3) and (4) update obsolete references to probation.

294 Paragraph 16(5) amends the list of information a victim may receive.

295 Paragraph 17 amends section 42A (supplemental provision for case where no restriction direction given).

296 Paragraphs 17(2), (4) and (5) update obsolete references to probation.

297 Paragraph 17(4) amends section 42A to provide that probation must notify the managers of hospital where the patient is detained of the victim's name and address where they express a wish to receive information or make representations and inserts new section 3A which provides that probation may notify a victim of the name and address of the hospital.

298 Paragraph 17(5) inserts new section (5A) so probation may provide the victim with the name and address of the relevant hospital.

299 Paragraph 18 amends section 43 (representations where restriction direction made).

300 Paragraph 18(2), (4), and (5) to (8) update obsolete references to probation.

301 Paragraphs 18(3), (4) and (5) substitute references to 'offender' with 'patient'.

302 Paragraph 18(5)(b) includes in section 43(5) a reference to section 75 of the Mental Health Act 1983.

303 Paragraph 19 amends section 43A (representations where restriction direction not given).

304 Paragraph 19(2) updates obsolete references to probation.

305 Paragraph 19(3) inserts new subsection (8A) which provides a duty for probation to pass on any information received from managers of the relevant hospital to the relevant victim.

306 Paragraph 20 amends section 44 (information where restriction direction made).

307 Paragraphs 20(2) and (4) to (8) update obsolete references to probation.

308 Paragraph 20(3) adds to the list of information a victim may receive if considered appropriate.

309 Paragraphs 20(4) to (6) substitute references to 'offender' with 'patient'.

310 Paragraph 20(5) includes in section 43A(5)(b) a reference to section 75 of the Mental Health Act 1983.

311 Paragraph 21 amends section 44A (information where restriction direction not given).

312 Paragraph 21(2) substitutes section 44A(2) to expand the list of information a clinician must pass to a hospital manager.

313 Paragraph 21(3) substitutes section 44A(7) to add to the list of information a victim may receive if considered appropriate.

314 Paragraph 21(4) inserts new subsection (7A) which provides a duty for probation to pass on any information received from managers of the relevant hospital to the relevant victim.

315 Paragraph 22 amends section 44B (removal of restriction).

316 Paragraphs 22(2) and (4) update obsolete references to probation.

317 Paragraph 22(3) provides that probation must take all reasonable steps to notify the hospital managers of an address where a victim may be contacted and inserts new section 3A which provides that probation may notify a victim of the name and address of the hospital.

Part 2 – Information

Information

318 Paragraphs 23 and 24 insert into new Part 3A of the DVCVA new sections 44C to 44M to provide for a scheme where a victim of an offence can contact a helpline to request information about an offender. This Part sets out the rights of victims of offences listed in Part 1 of Schedule 6A where the sentence of imprisonment or detention is for a term less than the specified sentence length in respect of the offence, an offence listed in Part 2 of Schedule 6A or an offence where the behaviour giving rise to the offence involved domestic abuse within the meaning of section 1 of the Domestic Abuse Act 2021 to receive information .

319 The relevant sections below set out the steps that the relevant provider of probation services needs to take if they receive a request for information from a person who appears to them to be a victim of the offence, or to act for the victim of the offence. The information is provided by the provider of probation services, except in the case of patients subject to a hospital order without a restriction, where the information is provided either by the relevant hospital manager or probation.

Imprisonment or detention

320 New section 44C (Victims' rights to receive information) provides for a victim who makes contact requesting information to automatically qualify to receive appropriate information. Where a hospital direction and limitation direction are both given new section 44H will apply.

321 New section 44C(1) and (2) set out the qualification criteria for a victim to receive such information.

322 New section 44C(3) provides the list of information the victim may receive.

Hospital Orders

323 New section 44D (Information where restriction order made) provides for information to be disclosed to the victim where a hospital order has been made.

324 New section 44D(1) sets out the qualification criteria for a victim to receive such information.

325 New section 44D(2) places a duty on probation to ensure that the orders are still in force before providing any information.

326 New section 44D(3) provides the list of information the victim may receive.

327 New section 44D(4) provides a duty for the Secretary of State to inform probation of the listed information relating to discharge, conditions and restriction order.

328 New section 44D(5) and (6) apply where the First-tier tribunal makes a decision on the patients' detention. In such cases the duty to provide information in subsection (4) switches to the First-tier Tribunal.

329 New section 44D(7) lists the additional information the First-tier Tribunal needs to provide.

330 New Section 44E (Victim impact statements where restriction order made) enables probation to give certain victims the opportunity to provide a victim impact statement to the First-tier Tribunal or the Mental Health Review Tribunal to Wales where appropriate to do so.

331 New Section 44E(1) sets out the qualification criteria for the discretion to apply.

332 New Section 44E(2) requires probation to ascertain if a qualifying victim wants to make a victim impact statement and forward it to the tribunal.

333 New Section 44E(3) requires the tribunal to allow the person who made the statement to read it to the tribunal unless there are good reasons not to.

334 New Section 44E(4) provides that the tribunal may only have regard to the statement when determining specific matters and sets out what those matters are.

335 New section 44E(5) defines 'relevant hearing' and 'victim impact statement'.

336 New Section 44F (Information where restriction order not made) applies where a hospital order has been made without a restriction order.

337 New section 44F(1) sets out the qualification criteria for a victim to receive such information.

338 New section 44F(2) places a duty on probation to ensure that the orders are still in force.

339 New section 44F(3) places a duty on probation to inform the hospital of the details of the victim wishing to receive information and probation may provide the victim with the details of the hospital so the hospital can provide information directly.

340 New section 44F(4) places a duty on the managers of a hospital to provide the listed information where appropriate and who to provide it to.

341 New section 44F(5) places a duty on probation to pass any information received from hospital under subsection (4) to the victim where appropriate.

342 New section 44F(6) places a duty on the clinician to pass on the listed information to the hospital managers, so they can fulfil their duty under subsection (4).

343 New section 44F(7) and (8) apply where the First-tier tribunal makes a decision on the patients' detention. In such cases the duty to provide information in subsection (8) switches to the First-tier Tribunal.

344 New Section 44(9) defines 'the relevant hospital'.

345 New section 44G (Removal of restriction) provides for the scenario where a request for information is made but the restriction order ceases to have effect.

346 New section 44G(1) provides the circumstances in which the section applies.

347 New section 44G(2) provides a duty on probation to take reasonable steps to provide contact details of the victim to the hospital.

348 New section 44G(3) provides that Probation may notify the victim of the relevant hospital.

349 New section 44G(4) provides that while the hospital order continues in force, the hospital is required to provide information in accordance with new section 44E.

Hospital directions

350 New section 44H (Information) provides for information to be disclosed to the victim where a hospital direction has been made.

351 New section 44H(1) sets out the qualification criteria for a victim to receive such information.

352 New section 44H(2) places a duty on probation to ensure that the orders are still in force before providing any information.

353 New section 44H(3) provides the list of information the victim may receive.

354 New section 44H(4) provides a duty for the Secretary of State to inform probation of the listed information relating to discharge, conditions and restriction order.

355 New section 44H(5) and (6) apply where the First-tier tribunal makes a decision on the patients' detention. In such cases the duty to provide information in subsection (4) switches to the First-tier Tribunal.

356 New section 44H(7) lists the additional information the First-tier Tribunal needs to provide.

357 Section 44I (Removal of restriction) applies where a hospital order has been made without a restriction order.

358 New section 44I (Removal of restriction) provides for the scenario where a request for information is made but the restriction order ceases to have effect.

359 New section 44I(1) provides the circumstances in which the section applies.

360 New section 44I(2) provides a duty on probation to take reasonable steps to provide contact details of the victim to the hospital.

361 New section 44I(3) provides that Probation may notify the victim of the relevant hospital.

362 New section 44I(4) and (5) provides that while the hospital order continues in force, the hospital is required to provide information in accordance with new section 44E.

363 New section 44(6) defines 'relevant hospital'.

Transfer directions

364 New section 44J (Information where restriction direction given) provides for information to be disclosed to the victim where a transfer direction has been made.

365 New section 44J(1) sets out the qualification criteria for a victim to receive such information.

366 New section 44J(2) places a duty on probation to ensure that the orders are still in force before providing any information.

367 New section 44J(3) provides the list of information the victim may receive.

368 New section 44J(4) provides a duty for the Secretary of State to inform probation of the listed information relating to discharge, conditions and restriction order.

369 New section 44J(5) and (6) apply where the First-tier tribunal makes a decision on the patients' detention. In such cases the duty to provide information in subsection (4) switches to the First-tier Tribunal.

370 New section 44J(7) lists the additional information the First-tier Tribunal needs to provide.

371 Section 44K (Information where restriction direction not given) applies where a transfer direction has been made without a restriction direction.

372 New section 44K(1) sets out the qualification criteria for a victim to receive such information.

373 New section 44K(2) places a duty on probation to ensure that the orders are still in force.

374 New section 44K(3) places a duty on probation to inform the hospital of the details of the victim wishing to receive information and may provide the victim with the details of the hospital so the hospital can provide information directly.

375 New section 44K(4) places a duty on the managers of a hospital to provide the listed information where appropriate and who to provide it to.

376 New section 44K(5) places a duty on probation to pass any information received from hospital under subsection (4) to the victim.

377 New section 44K(6) places a duty on the clinician to pass on the listed information to the hospital managers, so they can fulfil their duty under subsection (4).

378 New section 44K(7) and (8) apply where the First-tier tribunal makes a decision on the patients' detention. In such cases the duty to provide information in subsection (8) switches to the First-tier Tribunal.

379 New section 44K(9) refines 'relevant hospital'.

380 New section 44L (Removal of restriction) provides for the scenario where a request for information is made but the restriction direction ceases to have effect.

381 New section 44L(1) provides the circumstances in which the section applies.

382 New section 44L(2) provides a duty on probation to take reasonable steps to provide contact details of the victim to the hospital.

383 New section 44L(3) provides that Probation may notify the victim of the relevant hospital.

384 New section 44L(4) provides that while the hospital order continues in force, the hospital is required to provide information in accordance with new section 44J.

385 New section 44L(5) defines 'relevant hospital'.

386 Paragraphs 24 and 25 insert a new chapter 3 (information: powers etc) into Part 3A (Victims' rights to make representations and receive information).

Chapter 3 – information: powers etc

387 New section 44M (power to disclose information to victims etc) provides for a discretionary power for probation to provide a victim with information if the conditions in this section are met.

388 New section 44M(1) provides the qualifying criteria for the discretion to apply.

389 New section 44M(2) and (3) provides the discretion for probation to disclose the information in as listed in subsection (3).

390 New section 44O(4) defines 'offence', 'similar criminal conduct' and expands the definition of victim for this section.

391 New section 44N (victim impact statements where hospital order made with restriction order) enables probation to give certain victims the opportunity to provide a victim impact statement to the First-tier Tribunal or the Mental Health Review Tribunal to Wales where appropriate to do so.

392 New Section 44N(1) sets out the qualification criteria for the discretion to apply.

393 New Section 44N(2) requires probation to ascertain if a qualifying victim wants to make a victim impact statement and forward it to the tribunal.

394 New Section 44N(3) requires the tribunal to allow the person who made the statement to read it to the tribunal unless there are good reasons not to.

395 New Section 44N(4) provides that the tribunal may only have regard to the statement when determining specific matters and sets out what those matters are.

396 New section 44N(5) defines 'relevant hearing', 'victim' and 'victim impact statement'.

397 New section 44O clarifies that these provisions do not narrow any powers of disclosure probation may have. So, for example probation may pass on representations on release, discharge or leave conditions, otherwise than as provided for in the DVCVA.

Part 3 – Representations and Information: Offences

Offences

398 Paragraph 26 inserts a new schedule, Schedule 6A (representations and information: offences), into the DVCVA. The Schedule specifies offences for which eligible victims can receive information and make representations about licence conditions and supervision requirements. Offences listed in Part 1, where the sentence of imprisonment imposed is 12 months or more, and

offences listed in Part 2 will apply for the Victim Contact Scheme. Offences listed in Part 1, where the sentence of imprisonment imposed is less than 12 months, and offences in Part 3 will apply for the Helpline.

Part 4 – Consequential and Other Provision

Consequential provision etc.

399 Paragraphs 27 and 28 move the existing interpretation provision in section 45 of the DVCVA to new chapter 4 of Part 3A.

400 Paragraph 30 amends section 45 (interpretation: sections 35 to 44B) to alter the title of the section to cover the new sections, removes obsolete definitions for probation and insert some new definitions, including that for probation.

401 Paragraph 31 inserts two new regulation making powers to alter the list of offences in Schedule 6A and to change the meaning of the specified sentence length either generally or in relation to particular offences specified in Schedule 6A.

402 Paragraphs 32 and 33 make minor amendments to the headings to section 46.

403 Paragraph 34 amends section 61 (orders) of the DVCVA to make the powers subject to affirmative resolution.

Victims' Commissioner

Clause 8: Commissioner's power to act in individual cases relevant to public policy

404 Clause 8 makes the following amendments to Section 51 of the Domestic Violence Crime and Victims Act 2004 ("the DVCVA").

405 Subsection (1) sets out that section 51 of the DVCVA will be amended.

406 Subsection (2) moves the existing text at section 51 of the DVCVA to become subsection (1) of that section.

407 Subsection (3) inserts an exception to the legislative bar preventing the Commissioner from exercising their functions in relation to particular victims and witnesses.

408 Subsection (4) details that exception as allowing the Commissioner to exercise their functions in relation to the case of a particular victim or witness where the Commissioner considers that:

a. the case raises issues of public policy of relevance to other victims or witnesses; and

b. the exercise of one of more of their functions in relation to the case is likely to promote the interests of other victims or witnesses in relation to those issues of public policy.

409 Subsection (5) gives the Commissioner the ability to exercise their functions in this way in relation to a victim or witness, regardless of when the conduct in relation to which the person is a victim or witness occurred (including if it occurred before clause 6 is commenced).

410 Subsection (6) gives "victim" and "witness" the same meaning given by section 52 of the DVCVA.

Clause 9: Duty to co-operate with Commissioner: anti-social behaviour

411 Clause 9 makes the following amendments to the Domestic Violence, Crime and Victims Act 2004 ("the DVCVA").

412 Subsection (1) sets out that the DVCVA will be amended.

413 Subsection (2) inserts a new section 51B into the DVCVA. Subsection (1) of the new section 51B provides that the Victims' Commissioner may request a local authority or relevant provider of

social housing to co-operate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner's functions, so far as those functions are exercisable in respect of victims and witnesses of antisocial behaviour.

414 Subsection (2) of the new section 51B provides that the Commissioner may make such a request to a relevant provider of social housing only in respect of matters that relate to social housing.

415 Subsection (3) of the new section 51B outlines that the local authority or relevant provider of social housing must comply with a request made to it under section 51B, so far as it is appropriate and reasonably practicable for the authority or the provider to do so.

416 Subsection (4) of the new section 51B sets out the meaning of "local authority":

a. (a) in relation to England, local authority means— (i) a district council; (ii) a county council; (iii) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009; (iv) a combined county authority established under section 9 of the Levelling-up and Regeneration Act 2023; (v) a London borough council; (vi) the Common Council of the City of London; (vii) the Council of the Isles of Scilly;

b. (b) in relation to Wales, local authority means a county council or a county borough council.

417 Subsection (4) of the new section 51B also sets out that "relevant provider of social housing" means a private registered provider of social housing or a body registered as a social landlord under section 3 of the Housing Act 1996; and that "social housing" has the same meaning as in Part 2 of the Housing and Regeneration Act 2008.

418 Subsection (3) amends section 51A of the DVCVA to insert ": victims' code services" in the heading of that section.

419 Subsection (4) amends subsection (1) of section 52 of the DVCVA by substituting "51" for "51B".

Clause 10: Duty of Commissioner to report on compliance with victims' code

420 Clause 10 makes the following amendments to the Victims and Prisoners Act 2024 ("the 2024 Act").

421 Subsection (1) sets out that the 2024 Act will be amended.

422 Subsection (2)(a) removes the requirement contained in section 11(4)(a) of the 2024 Act for the Secretary of State (in practice the Secretary of State for Justice and the Home Secretary) and the Attorney General to consult the Commissioner on their Code compliance report, published under section 11(1)(b) of the 2024 Act.

423 Subsection (2)(b) inserts a requirement for the Secretary of State (in practice the Secretary of State for Justice and the Home Secretary) and the Attorney General to have regard to the Commissioner's Code compliance report for a period when preparing their own report for that period, pursuant to section 11(1)(b) of the 2024 Act.

424 Subsection (3) amends the 2024 Act to insert a new section 11A into the 2024 Act. Subsection (1) of the new section 11A requires the Commissioner to make a report to the Secretary of State (in practice the Secretary of State for Justice and the Home Secretary) and the Attorney General on the Code compliance of the persons mentioned in section 11(6) of the 2024 Act. This must cover each period in relation to which the Secretary of State and the Attorney General are required to prepare and publish a report under section 11(1)(b) of the 2024 Act.

425 Subsection (2) of the new section 11A requires the Commissioner to publish their report.

426 Subsection (3) of the new section 11A makes clear that section 49A of the DVCVA (duty to respond to Commissioner's recommendations) applies to the Commissioner's Code compliance report, when containing recommendations to an authority within the Commissioner's remit, as it does to recommendations contained in the Commissioner's other reports (produced pursuant to section 49(2)(b) or (4) of the DVCVA).

427 Subsection (4) of the new section 11A makes clear that section 53 of the DVCVA applies to new section 11A as they apply to Part 3 of the DVCVA, with the effect that "those authorities within the Commissioner's remit" in section 11A(3) means those authorities listed in Schedule 9 to the DVCVA.

428 Subsection (5) of the new section 11A sets out that, for the purposes of section 11A, "code compliance" of a person is whether and how the services provided by the person in the relevant area are provided in accordance with the duty in section 5(1) of the 2024 Act.

Prosecutions

Clause 11: Appointment of Crown Prosecutors

429 Subsection (1) sets out that the Prosecution of Offences Act 1985 ("the 1985 Act") will be amended.

430 Subsection (2)(a) removes the requirement in section 1(3) of the 1985 Act that a Crown Prosecutor must hold a "general qualification" as defined in section 71(3)(c) of the Courts and Legal Services Act 1990.

431 Subsection 2(b) inserts two new subsections to section 1 of 1985 Act. New subsection (8) makes clear that section 1 of the 1985 Act does not grant a right of audience or a right to conduct litigation to a Crown Prosecutor who does not have a general qualification. New subsection (9) further makes clear that section 1 of the 1985 Act does not grant, to a Crown Prosecutor who does not hold a general qualification, a statutory exemption from the authorisation requirements of the Legal Services Act 2007 regarding rights of audience or conduct of litigation.

432 Subsection (3)(a) removes the requirement in section 5(1) of the 1985 Act that a person appointed to conduct prosecutions of behalf of the CPS must hold a "general qualification", as defined in section 71(3)(c) of the Courts and Legal Services Act 1990.

433 Subsection (3)(b) inserts two new subsections to section 5 of 1985 Act. New subsection (3) makes clear that section 5 of the 1985 Act does not grant a right of audience or a right to conduct litigation to a person appointed to conduct prosecutions for the CPS who does not have a general qualification. New subsection (4) further makes clear that section 5 of the 1985 Act does not grant, to an appointed person who does not hold a general qualification, a statutory exemption from the authorisation requirements of the Legal Services Act 2007 regarding rights of audience or conduct of litigation.

Clause 12: Private prosecutions: regulations about costs payable out of central funds

434 Subsection (1) sets out that the Prosecution of Offences Act 1985 ("the 1985 Act") will be amended.

435 Subsection (2)(a) amends section 17(1) of the 1985 Act so as to make it a freestanding power of the court to make a costs order in favour of a prosecutor, without reference to the amount of the payment.

436 Subsection (2)(b) inserts new subsection (2ZA) into the 1985 Act. Subsection (2ZA) reenacts the provision currently in the closing words of section 17(1) as to the amount of the order.

437 Subsection (2)(c) updates the cross-reference in subsection (2A) of section 17 of the 1985 Act to reflect the relocation of the existing provision about the amount of a payment out of central funds from subsection (1) to new subsection (2ZA).

438 Subsection (2)(d) inserts new subsection (2AA) into the 1985 Act. Subsection (2AA) provides that new subsections (2ZA) and existing subsection (2A), both of which relate to the determination of the amount of payment out of central funds, have effect subject to regulations under section 20(1A)(d) of the 1985 Act.

439 Subsection (3) repeals section 20(1B)(a) of the 1985 Act, the effect of which is that an order made under section 17 of the 1985 Act will constitute a "relevant costs order" for the purposes of section 20(1A)(d) of the 1985 Act.

Sentencing reviews etc

Clause 13: Reviews of sentencing: time limits

440 Subsection (2) amends paragraph 1 of Schedule 3 to the Criminal Justice Act 1988. It inserts new sub-paragraphs (2) to (4), which apply only in England and Wales.

441 New sub-paragraph (2) provides that, where the Attorney General receives a request to review a sentence in the last 14 days of the 28-day period, they may apply for leave to refer the sentence to the Court of Appeal within 14 days of receiving that request. This is the limited extent to which the time limit is extended beyond the 28-day period.

442 New sub-paragraph (3) provides that a certificate of the Attorney General is conclusive evidence of when a request to review a sentence is received.

443 New sub-paragraph (4) sets out that, where the Attorney General receives multiple requests to review a sentence, the references to a request to review a sentence in new sub-paragraphs (2) to (3) are to the first request that is received. Calculation of the time limit to apply for leave to refer a case is therefore from the first request that is received and not any subsequent requests.

444 Subsection (3) specifies that new sub-paragraphs (2) to (4) do not apply to Northern Ireland.

445 Clause 14: Terms of imprisonment for certain offences on summary conviction

446 Subsection (1) substitutes "the general limit in a magistrates' court" for "6 months" in the following six offences, which are triable either-way, so that they are subject to the general limit in the magistrates' court as specified in section 224(1A)(b) of the Sentencing Code:

a. Section 1(6)(a) of the Prevention of Social Housing Fraud Act 2013 (unlawful sub-letting: secure tenancies);

b. Section 2(7)(a) of the Prevention of Social Housing Fraud Act 2013 (unlawful sub-letting: assured tenancies and secure contracts);

c. Section 30(3)(b) of the Modern Slavery Act 2015 (breach of various orders or requirements under this Act);

d. Section 339(2)(a) of the Sentencing Act 2020 (breach of a criminal behaviour order);

447 Section 354(4)(a) of the Sentencing Act 2020 (breach of a sexual harm prevention order); and

448 Section 363(2)(a) of the Sentencing Act 2020 (breach of a restraining order).

449 Subsection (2) provides that the amendments made by subsection (1) only apply where an offender is convicted of one of the six listed offences on or after the date on which this section comes into force.

General

Clause 15: Power to make consequential provision

450 Subsections (1), (2) and (4) create a power for the Secretary of State to make any consequential amendments that may be required to existing law to ensure consistency in the statute book and operability of the provisions of this Bill by way of regulations subject to draft affirmative procedure. Subsections (3) and (5) provide that these regulations can make supplementary, incidental, transitional or saving provision, and that these elements will be subject to negative procedure.

Clause 16: Extent

451 Subsection (1) provides that any amendment or repeal made by this Bill has the same extent within the United Kingdom as the provision amended or repealed, with the effect that all provisions of the Bill, bar clause 2, clause 13 and clauses 15-18, extend to England and Wales. Clause 2 and clauses 15-18 are dealt with below. Clause 13 extends and applies to England and Wales; it also extends to Northern Ireland but does not apply there.

452 Subsection (2) provides that section 384 of the Armed Forces Act 2006 (extent outside the United Kingdom) applies to amendments made by clause 2 of the Bill as those provisions apply to provisions of that Act, with the effect that the amendments made by clause 2 extend to England and Wales, Scotland, Northern Ireland, the Isle of Man and the British Overseas Territories except Gibraltar, and may be extended to the Channel Islands by Order in Council. They apply to armed forces personnel and civilians subject to service discipline wherever they are in the world.

453 Subsection (3) provides that clauses 15-18 (General) extend to England and Wales, Scotland and Northern Ireland.

Clause 17: Commencement and transitional provision

454 Subsections (1), (2) and (3) provide that all of the provisions of the Bill will come into force on such day as the Secretary of State appoints via regulations, apart from clauses 11, 12, 13 and 14 of the Bill which will come into force two months after Royal Assent, and clauses 15-18 (General) which will come into force on the day on which the Bill becomes an Act of Parliament.

455 Subsections (4), (5) and (6) provide for the Secretary of State to make transitional or saving provision by way of regulations in connection with the coming into force of any provision of the Bill, and that these regulations will be subject to negative procedure.

Clause 18: Short title

456 This clause provides that the short title of the Bill will be the Victims and Courts Act 2025, once the Bill becomes an Act.

Commencement

457 Clauses 15-18 (General) come into force on the day this Act is passed.

458 The remaining provisions of this Bill will come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint, with the exception of:

a. changes to the Prosecution of Offences Act 1985 made by the Bill (clauses 11 and 12);

b. clause 13 (reviews of sentencing: time limits); and,

c. clause 14 (terms of imprisonment for certain offences on summary conviction);

which will come into force two months after royal assent.

Financial implications of the Bill

459 Impact Assessments have been prepared for each part of the Bill and cover the implications on bodies and organisations which derive from this Bill. The main financial implications are:

a. Extending the powers of the Victims' Commissioner is estimated to cost an average of £0.1m per year.

b. Extending the Victim Contact Scheme and setting up a dedicated helpline for other victims will cost His Majesty's Prison and Probation Service approximately £0.2m per year.

c. The restriction on the exercise of parental responsibility will cost £26.6-8.5m per year, with a best estimate £19.9m per year. These costs will be borne by HM Courts and Tribunals Service (HMCTS), the Legal Aid Agency, local authorities and the Children and Family Court Advisory and Support Service (Cafcass) and Cafcass Cymru.

460 The 83 additional sitting days in the magistrates' courts will result in an additional cost for the Legal Aid Agency. The central estimate for this is £0.1m.

461 The number of defendants sentenced in the magistrates' courts is expected to rise, resulting in an opportunity cost to His Majesty's Courts and Tribunals Service. The central estimate for this is 83 sitting days or an opportunity cost of £67k per year. However, there is no direct financial pressure created here because magistrates' courts' sessions will not be increased to accommodate the additional work. The impact will materialise as a small increase in pressure on the magistrates' courts and a small decrease in pressure on the Crown Court backlog as work is transferred, rather than an increase in costs.

Parliamentary approval for financial costs or for charges imposed

462 The Bill will require a money resolution to authorise charges on the public revenue (broadly speaking, new public expenditure). This resolution was agreed to by the House of Commons on 20 May 2025. There is an exemption from this requirement in relation to increased expenditure on the administration of justice. However, the provision in clauses 3 to 5 of, and Schedule 1 to, the Bill relating to restriction of parental responsibility will result in an increase in expenditure by public bodies including the Legal Aid Agency and the Children and Family Court Advisory and Support Service (Cafcass) which falls outside of this exemption. As these bodies are funded in whole or in part by money provided by Parliament, these provisions will require the cover of a money resolution.

463 No ways and means resolution is required for the Bill because it does not authorise any new taxation or other similar charges.

Compatibility with the European Convention on Human Rights

464 Baroness Levitt, the Parliamentary Under Secretary of State for Justice, concludes that the provisions of the Bill, as introduced, are compatible with the European Convention on Human Rights (ECHR).

Environment Act 2021 section 20 statement

465 Baroness Levitt, the Parliamentary Under Secretary of State for Justice, is of the view that the Bill as introduced into the House of Lords does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

European Union (Withdrawal) Act 2018 section 13C statement

466 Baroness Levitt, the Parliamentary Under Secretary of State for Justice, is of the view that the Bill as introduced into the House of Lords does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018 has been made.

Related documents

467 The following documents are relevant to the Bill and can be read at the stated locations:

- Victims and Prisoners Act 2024 Victims and Prisoners Act 2024 - Parliamentary Bills - UK Parliament

Annex A - Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Clause 1	Yes	Yes	No	No	N/A	No	N/A
Clause 2	Yes	Yes	No	Yes	No	Yes	No
Clause 3	Yes	Yes	No	No	N/A	No	N/A
Clause 4	Yes	Yes	Yes	No	N/A	No	N/A
Clause 5	Yes	Yes	No	No	N/A	No	N/A
Clause 6	Yes	Yes	No	No	N/A	No	N/A
Clause 7	Yes	Yes	Yes	No	N/A	No	N/A
Clause 8	Yes	Yes	No	No	N/A	No	N/A
Clause 9	Yes	Yes	Yes	No	N/A	No	N/A
Clause 10	Yes	Yes	No	No	N/A	No	N/A
Clause 11	Yes	Yes	No	No	N/A	No	N/A
Clause 12	Yes	Yes	No	No	N/A	No	N/A
Clause 13	Yes	Yes	No	No	N/A	Extends but does not apply	No
Clause 14	Yes	Yes	No	Yes	No	Yes	No
Clause 15	Yes	Yes	No	Yes	No	Yes	No
Clause 16	Yes	Yes	No	Yes	No	Yes	No
Clause 17	Yes	Yes	No	Yes	No	Yes	No
Clause 18	Yes	Yes	No	Yes	No	Yes	No

VICTIM AND COURTS BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Victim and Courts Bill as brought from the House of Commons on 28 October 2025 (Bill HL Bill XX).

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