

<b>Title:</b> Draft Domestic Abuse Bill  <b>IA No:</b> HO0328  <b>RPC Reference No:</b> <b>Lead department or agency:</b> Home Office Ministry of Justice <b>Other departments or agencies:</b> Ministry for Housing, Communities and Local Government	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 21/01/2019			
	<b>Stage:</b> Draft			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
<b>Contact for enquiries:</b>				

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£250m	N/A	N/A	Not in scope	Non qualifying provision

**What is the problem under consideration? Why is government intervention necessary?**

Despite recent good progress in tackling domestic abuse (DA), the incidence of such offences remains high, with over 1 in 10 crimes reported to the police being domestic abuse-related. In 2016/17 nearly 8 per cent of women and over 4 per cent of men (aged between 16-59) experienced some form of domestic abuse, including 108 fatalities. Government intervention is required to intervene legislatively to facilitate a wider culture change around domestic abuse, provide all possible protection, and support and strengthen the justice system's response to it. Therefore the draft DA Bill is proposed to bring about such changes.

**What are the policy objectives and the intended effects?**

The draft Bill has five strategic policy objectives: (1) raise awareness and challenge assumptions, (2) support victims and their children, (3) create a justice system that better serves victims, (4) reduce offending and reoffending and (5) drive consistency and better performance in the response to domestic abuse.

The intended effects are to: permanently change the culture around, and the response to, domestic abuse; improve support for victims; decrease the incidence of domestic abuse; and reduce both the emotional and economic costs to victims, their families and the public and private sectors.

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

**Option 1:** Do Nothing. Make to changes to existing legislation.

**Option 2:** Implement the measures in the draft Domestic Abuse Bill: (a) Introduce a statutory definition of DA. (b) Create the role of DA Commissioner. (c) Create a DA Protection Notice and Order. (d) Extend extraterritorial jurisdiction over specified offences, as required by the Istanbul Convention. (e) Put the Domestic Violence Disclosure Scheme guidance on a statutory footing. (f) Prevent cross examination of victims by accused perpetrators of DA in the family court. (g) Subject high risk domestic abuse offenders on licence to mandatory polygraph examinations, with an initial pilot (h) Provide adult victims in criminal courts automatic eligibility for special measures (i) Protect security of tenure for DA victims.

Option 2 is the Government's preferred approach as it best meets the policy objectives. While the Government believes that the combined effect of all the measures is likely to be greater than the sum of the effect of each individual measure, this IA will consider the impact of each measure separately.

Will the policy be reviewed? <b>It will be reviewed five years after Royal assent</b>				
Does implementation go beyond minimum EU requirements?			No	
Are any of these organisations in scope?			<b>Micro</b> No	<b>Small</b> No
			<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b>	
			<b>Non-traded:</b>	

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

Signed by the responsible Minister: ..... Date: .....

# Summary: Analysis & Evidence

Measure (a)

Description: Introduce a statutory definition of domestic abuse.

## FULL ECONOMIC ASSESSMENT

Price Base Year 18/19	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

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

### Description and scale of key monetised costs by groups most affected

It has not been possible to identify any monetised costs associated with this measure.

### Other key non-monetised costs by groups most affected

The non-monetised costs are likely to be small as it is envisaged that the statutory definition would largely mirror the existing non-statutory Government definition.

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

### Description and scale of key monetised benefits by groups most affected

It has not been possible to identify any monetised benefits associated with this measure.

### Other key non-monetised benefits by groups most affected

Putting the Government definition in statute would contribute to the required culture change around DA, helping police and other agencies to understand the true nature of the crime by explicitly including non-violent domestic abuse, and in particular economic abuse within the definition.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

For all measures it is assumed that the benefits to society would not be negligible. In the absence of monetised benefits, only present value (NPV) costs are shown on page 1. Therefore, the NPV does not fully reflect the impact on society of the proposed measures.

For costs, where best estimates cannot be estimated, the midpoint between the estimated range has been used.

## BUSINESS ASSESSMENT (Measure a)

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

# Summary: Analysis & Evidence

Measure (b)

Description: Create the role of Domestic Abuse Commissioner.

## FULL ECONOMIC ASSESSMENT

Price Base Year 18/19	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		1.1	7

### Description and scale of key monetised costs by groups most affected

The key monetised cost would be the commissioner's salary and variable overhead costs, as well as staffing the commissioner's office. The commissioner's office is assumed to consist of 15 staff. With the 15 per cent optimism bias applied the total cost is approximately £1.1 million per year. The ten year total cost is estimated at £7.4 million (PV).

### Other key non-monetised costs by groups most affected

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

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

### Description and scale of key monetised benefits by groups most affected

It has not been possible to identify any monetised benefits associated with this measure.

### Other key non-monetised benefits by groups most affected

The policy should result in better local and national responses to domestic abuse through earlier intervention to reduce escalation of abuse, increasing reporting and providing better support to victims and their children.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The salaries assumptions are based on the Home Office pay scales in 2017/18 uprated to 2018/19 prices to ensure consistency with the analysis with the other measures.

The main risk is that the cost of this measure could be higher than estimated if the resource requirement for the Domestic Abuse commissioner is greater than assumed, for example, an office consisting of more than the assumed 15 staff, or at higher grades.

## BUSINESS ASSESSMENT (Measure b)

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

# Summary: Analysis & Evidence

Measure (c)

**Description:** Create a domestic abuse protection notice and order.

## FULL ECONOMIC ASSESSMENT

Price Base Year 18/19	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	17.4	116
High	N/A	26.0	173
Best Estimate	N/A	21.7	144

### Description and scale of key monetised costs by groups most affected

The cost to HM Prisons & Probation Service (HMPPS) is estimated at £7.4 to £10.3 million per year associated with criminalisation of breach. This would include 70 to 110 additional prison places per year and additional offenders receiving probation supervision in the community.

An estimated increase in protective order applications and criminal breach proceedings could cost the Legal Aid Agency £3.5 to £6.2 million per year and HM Courts & Tribunal Service (HMCTS) £2.5 to £3.9 million per year.

### Other key non-monetised costs by groups most affected

Cafcass and Cafcass Cymru: There are potential resource costs for Cafcass practitioners associated with applications being made for domestic abuse protection orders. Electronic Monitoring (EM) costs to HMPPS, and Police costs for enforcement of EM requirements, have not yet been estimated.

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

### Description and scale of key monetised benefits by groups most affected

It has not been possible to identify any monetised benefits associated with this measure.

### Other key non-monetised benefits by groups most affected

There could be benefits to victims through a more consistent approach to domestic abuse, greater confidence in the justice system and through earlier intervention. DAPOs aim to change offender behaviour through deterrence and by preventing the escalation of abuse and reducing reoffending. Additionally it will take the onus off the victim to apply to the courts for an order, as the police (agencies specified by the Secretary of State, or another person with the court's permission) can do this on their behalf.

### Key assumptions/sensitivities/risks

Discount rate (%)

3.5

It is assumed that enabling more people to apply for DAPOs than were able to apply for DVPOs (victims of non-violent domestic abuse offences, and a broader range of agencies and individuals) would increase the volume of applications by between 5 and 10 per cent. An important risk is that the estimates rely on the new domestic abuse protective order framework being used in response to all domestic abuse cases for which this intervention has been considered appropriate.

## BUSINESS ASSESSMENT (Measure c)

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

# Summary: Analysis & Evidence

Measure (d)

**Description:** Extend extraterritorial jurisdiction over specified offences as required by the Istanbul Convention.

## FULL ECONOMIC ASSESSMENT

Price Base Year 18/19	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		6.8	45

### Description and scale of key monetised costs by groups most affected

The majority of the estimated costs associated with this measure impact HMPPS and are estimated at £4.3 million per year. Most of this cost would be associated with an increase of 150 prison places per year.

### Other key non-monetised costs by groups most affected

The costs associated with transporting evidence, victims, witnesses and defendants to the UK, and police/prosecutors gathering evidence overseas have not been estimated. It is not clear which jurisdiction or agency would bear these costs.

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

### Description and scale of key monetised benefits by groups most affected

It has not been possible to identify any monetised benefits associated with this measure.

### Other key non-monetised benefits by groups most affected

Ratifying the Istanbul Convention would enhance the UK's reputation as a world leader in tackling violence against women and demonstrate the Government's commitment to eliminating such violence.

### Key assumptions/sensitivities/risks

It is assumed that attrition from arrest to proceeding for cases identified abroad would be similar to that for domestic cases.

Analysis is partly based on external datasets.

Discount rate (%)

3.5

## BUSINESS ASSESSMENT (Measure d)

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

# Summary: Analysis & Evidence

Measure (e)

Description: Place the guidance behind the Domestic Violence Disclosure Scheme on a statutory footing.

## FULL ECONOMIC ASSESSMENT

Price Base Year 18/19	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	0.2	2
High	N/A	0.5	3
Best Estimate	N/A	0.3	2

### Description and scale of key monetised costs by groups most affected

The estimated costs of this measure are assumed to only impact the police, through increased use of the scheme, and are estimated at £0.2 to £0.5 million per year.

### Other key non-monetised costs by groups most affected

This measure seeks to encourage the greater use of an existing scheme, therefore there are unlikely to be any significant non-monetised costs.

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

### Description and scale of key monetised benefits by groups most affected

It has not been possible to identify any monetised benefits associated with this measure.

### Other key non-monetised benefits by groups most affected

Improving and increasing police application of the scheme would provide greater and earlier protection to potential victims of domestic abuse and potentially increase victims' trust in the justice system.

### Key assumptions/sensitivities/risks

Discount rate (%)

3.5

The increase in the use of the scheme is assumed to be between 5 and 10 per cent.  
A considerable risk is that the unit cost of police time is based on data reported by one force (Wiltshire) in 2012/13 so is unlikely to be representative of all 43 forces in 2018/19. Although the cost of police time has been adjusted to the 2018/19 price level, the time taken by police may have fallen since the introduction as forces become more used to the scheme.

## BUSINESS ASSESSMENT (Measure e)

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

# Summary: Analysis & Evidence

Measure (f)

**Description:** Preventing cross examination of victims by accused DA perpetrators in family proceedings.

## FULL ECONOMIC ASSESSMENT

Price Base Year 18/19	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: 50

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		8	50

### Description and scale of key monetised costs by groups most affected

The estimated cost of funding legal representatives to cross-examine on behalf of perpetrators of domestic abuse or in other cases involving vulnerable witnesses in family proceedings is estimated to be up to approximately £8m per annum in steady state.

### Other key non-monetised costs by groups most affected

An effective mechanism would need to be set up to source and appoint legal representatives. Work is still required to establish the cost of administering this, or the costs of any necessary system changes. At present this means the additional costs of funding legal representatives to prevent victims having to cross examine their alleged abusers have not been quantified. HMCTS will also face administrative costs.

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

### Description and scale of key monetised benefits by groups most affected

This policy would create a new revenue stream for providers of legal representation. The total benefit to providers is estimated to be up to approximately £8m per annum. We anticipate a legal representative would be appointed in approximately 11,000 family proceedings annually.

### Other key non-monetised benefits by groups most affected

We expect that vulnerable witnesses would benefit from this policy as they would avoid the distress of being cross-examined in person by, or of having themselves to cross-examine, their alleged abusers; the provisions should also ensure the quality of evidence provided through cross-examination.

### Key assumptions/sensitivities/risks

It is assumed the base volumes for domestic abuse family law matters and private family matters with a domestic abuse component remain constant. Costs have only been considered for victims of DA even though this applies more widely. It is assumed that the proportion of unrepresented respondents remains constant. Current final hearing legal aid fees paid to legal representatives in the relevant family proceedings are used as a proxy for the fees which are likely to be paid to appointed legal representatives. Further details are available in the 'Risk and Sensitivity Analysis' section.

Discount rate (%) 3.5

## BUSINESS ASSESSMENT (Measure f)

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

# Summary: Analysis & Evidence

Measure (g)

Description: Mandatory polygraph examinations of high risk domestic abuse offenders on licence

## FULL ECONOMIC ASSESSMENT

Price Base Year 18/19	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	0.5	1

### Description and scale of key monetised costs by groups most affected

This measure will initially be piloted. The estimated costs to HMPs of running a 3-year pilot, includes staffing costs, training costs, travel and subsistence, legal, IT and evaluation costs are £0.5m per year. This does not include any costs of a potential full roll-out.

### Other key non-monetised costs by groups most affected

It has not been possible to identify any non-monetised costs associated with this measure.

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

### Description and scale of key monetised benefits by groups most affected

It has not been possible to identify any monetised benefits associated with this measure.

### Other key non-monetised benefits by groups most affected

Non-monetised benefits of this policy will accrue if polygraphing of on licence domestic abuse perpetrators generates additional licence monitoring information that is used to improve risk management of on licence offenders. The pilot should also provide additional evidence of the use of polygraphs for these offenders.

### Key assumptions/sensitivities/risks

These are indicative costings based on a 3-year pilot of 300 offenders and any changes to scale, scope or timings would impact costs.

Discount rate (%) 3.5

## BUSINESS ASSESSMENT (Measure g)

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

# Summary: Analysis & Evidence

Measure (h)

**Description:** Provide adult victims in criminal courts automatic eligibility for special measures

## FULL ECONOMIC ASSESSMENT

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

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

### Description and scale of key monetised costs by groups most affected

It has not been possible to identify any monetised costs associated with this measure.

### Other key non-monetised costs by groups most affected

Screening, hearing a witness in private and removal of wigs and gowns are expected to have negligible impacts to HMCTS. Costs to HMCTS associated with video cross-examination and live link are uncertain but could be substantial. Additional costs may fall on other entities such as the police (who may need to offer a video link from a police station) or rape support centres, where the victim does not wish to enter court, or by undertaking additional video recorded interviews.

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

### Description and scale of key monetised benefits by groups most affected

It has not been possible to identify any monetised benefits associated with this measure.

### Other key non-monetised benefits by groups most affected

The range of measures should help to mitigate additional sources of stress faced when providing evidence. It may also help victims of domestic abuse to offer better evidence, which in turn should result in improved justice outcomes for victims of domestic abuse. It is possible it could impact on guilty plea rates.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

## BUSINESS ASSESSMENT (Measure h)

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

# Evidence Base (for summary sheets)

## A. Background

1. The current cross-Government definition of domestic abuse is: any incident or pattern of incidents of controlling<sup>1</sup>, coercive<sup>2</sup>, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexual orientation. The abuse can encompass, but is not limited to: psychological, physical, sexual and emotional abuse.
2. This Government has taken strong, positive steps towards tackling domestic abuse. Since 2014, it has rolled out Domestic Violence Protection Orders (DVPOs) and the Domestic Violence Disclosure Scheme (DVDS). In 2015, it introduced a specific offence of domestic abuse which criminalises patterns of controlling or coercive behaviour. Additionally, it has placed domestic homicide reviews on a statutory basis and driven improvements to the police response by overseeing delivery of recommendations from inspections by HM Inspectorate of Constabulary and Fire and Rescue Services. In 2016, the Government published the Cross-Government Violence against Women and Girls Strategy<sup>3</sup> which details the ongoing commitment to tackling this issue and making domestic abuse 'everyone's business'.
3. Despite this progress, there is still much more to do: there are still approximately two million victims of domestic abuse every year and in too many cases domestic abuse related offences are still not understood, recognised and dealt with appropriate seriousness. The latest prosecution statistics published by the Crown Prosecution Service (CPS) in October 2018 show that while over the last five years, convictions for domestic abuse have risen by 30 per cent, there has been a fall in both prosecutions (by 4.8%) and convictions (by 3.9%) in the last year, with only a modest fall in referrals from the police (0.2%).<sup>4</sup>
4. On 17 February 2017, the Prime Minister announced a new programme of work leading towards a Domestic Abuse Bill to transform how government thinks about and tackles these crimes. That commitment to legislation was re-iterated in the Queen's Speech in May 2017 and is being supported by an additional £20 million of dedicated funding for victims of domestic abuse until 2020.<sup>5</sup>
5. The joint Home Office and Ministry of Justice consultation '*Transforming the Response to Domestic Abuse*' was launched on 8 March 2018 and ran for 12 weeks until 31 May.<sup>6</sup> Over the consultation period, officials held 25 stakeholder events in six regions engaging more than 1,000 people including victims, charities, local authorities and professionals. The consultation received over 3,200 responses. The Government has now considered these consultation responses and a response has now been published.<sup>7</sup>

## Affected stakeholder groups, organisations and sectors

6. The following groups would be most affected by this policy:
  - Victims.

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<sup>1</sup> Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

<sup>2</sup> Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

<sup>3</sup> <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020>

<sup>4</sup> <https://www.cps.gov.uk/violence-against-women-and-girls-data>

<sup>5</sup> <https://www.gov.uk/government/news/22-million-for-projects-to-support-domestic-abuse-survivors>

<sup>6</sup> <https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/>

<sup>7</sup> Home Office (2019) *Transforming the Response to Domestic Abuse: Consultation Response*. London: Home Office

- Defendents / Alleged Perpetrators / Perpetrators.
- The Judiciary.
- HM Courts and Tribunal Service (HMCTS).
- HM Prison and Probation Service (HMPPS).
- The Crown Prosecution Service (CPS).
- Children and Family Court Advisory and Support Service (Cafcass) and Cafcass Cymru.
- The National Probation Service (NPS).
- Community Rehabilitation Companies (CRCs).
- Police forces in England and Wales.
- The Legal Aid Agency (LAA).
- Ministry of Justice (MoJ).
- Home Office.
- Victim support agencies and community/representative groups for victims.
- Police and Crime Commissioners (PCC).
- Local authorities.
- Providers of programmes for perpetrators to raise their awareness of domestic abuse and change their behaviour.
- Legal service providers.

## **B. Rationale**

### **Economic Rationale**

7. The conventional economic approach to Government intervention is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (for example, monopolies overcharging consumers) or there are strong enough failures in existing Government interventions (for example, waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and re-distributional reasons (for example, to reallocate goods and services to the needier groups in society).
8. The rationale for intervention in this case relates to equity. The interventions outlined in this Impact Assessment (IA) are intended to provide greater support to the victims of domestic abuse and their children, recognise the seriousness of domestic abuse, raise awareness of the range of forms it can take, support victims through the justice system and to prevent offending and reoffending.

## **C. Objective**

9. The associated overall policy objective is that the draft Bill would underpin a lasting culture change in terms of the understanding of and response to domestic abuse, leading to:
  - a) Increased awareness and understanding of domestic abuse across statutory agencies and in public attitudes.

- b) Improved support for all victims of domestic abuse and the children who are affected by it.
  - c) Improved access to protection and redress through the justice system.
  - d) A reduction in offending and reoffending.
  - e) Improved consistency and performance in the response to domestic abuse.
10. The intention is that, as a result of these improvements, support for existing victims improves and the prevalence of domestic abuse falls, leading to a reduction in both the emotional and social costs to victims and their families and the financial costs to the public sector and private sector.
11. To address these objectives, the following legislative measures are proposed through the draft Bill:
- a) **Introduce a statutory definition of domestic abuse:** This would provide a clear definition of domestic abuse, which recognises that domestic abuse can extend beyond violence to other forms of abuse, to link to other measures in the Bill. The definition may largely reflect the current non-statutory cross-Government definition of domestic abuse of: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse involving intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to: psychological, physical, sexual and emotional abuse. However, the new statutory definition would also include 'economic' abuse<sup>8</sup> as a form of abuse (rather than 'financial' abuse).
  - b) **Create the role of Domestic Abuse Commissioner:** The Bill would establish a national figure head to stand up for victims and survivors of domestic abuse, raise public awareness, monitor the response of statutory agencies and local authorities and hold the Government and public bodies to account in tackling domestic abuse.
  - c) **Create a domestic abuse protection notice and order:** This would provide the police with a notice and the courts with an order which allows them to better protect victims and potential victims<sup>9</sup> from the harm a perpetrator poses. The notice would allow the police to facilitate immediate, short term protection to the victim from their perpetrator, pending a hearing within 48 hours at which the police's application for an order will be considered. The order, which could be made following the issue of a notice, by application to the court or by the victim or relevant third party or by the court of its own volition, would offer longer term protection to the victim by imposing appropriate conditions that the perpetrator must comply with and criminalising breach if these are not adhered to (without reasonable excuse).
  - d) **Extend extraterritorial jurisdiction over specified offences as required by the Istanbul Convention:** Demonstrate our commitment to ratifying the Istanbul Convention<sup>10</sup> by extending our extraterritorial jurisdiction over specified offences (particularly, but not exclusively) involving violence against women and girls (VAWG).
  - e) **Place the guidance underpinning the Domestic Violence Disclosure Scheme (DVDS) on a statutory footing:** This would improve understanding and awareness of the DVDS in order to improve usage and drive consistency across forces to ensure that potential victims are provided with appropriate information about the risk their partner or ex-partner may pose.
  - f) **Preventing cross examination of victims by accused perpetrators of domestic abuse and of other vulnerable parties in family proceedings (and prevent domestic abuse victims and other vulnerable parties from having to conduct cross-examination):** This would make provision for the prohibition or prevention of cross-examination in person in specified circumstances in family proceedings, and give courts the power to appoint legal representatives funded from central funds to undertake cross-examination in specified circumstances.

<sup>8</sup> Economic abuse refers to limiting access to financial resources, as financial abuse also did, but is then extended to include denied access to basic resources such as food, clothing and transportation and/or being forced to take out loans or entering into other financial contracts by the perpetrator.

<sup>9</sup> For instance, those who live in the same house as the victim and would be at risk of abuse.

<sup>10</sup> The Istanbul Convention aims to create a legal framework at pan-European level to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence <https://www.coe.int/en/web/istanbul-convention/about-the-convention>. The UK signed the Convention in June 2012 and the Government has committed to ratifying it.

- g) **Mandatory polygraph examinations of high risk domestic abuse offenders on licence:** This aims to generate a higher quality and quantity of offender licence monitoring information, to provide additional risk-related information to agencies such as the police and social services, thereby improving risk management of on licence offenders. This will involve an initial pilot scheme.
- h) **Create a legislative assumption that adult domestic abuse victims are to be treated as eligible for special measures in the criminal court on the grounds of fear and distress (if the victim wants such assistance):** This would reduce the stresses on the victims of domestic abuse associated with giving evidence by providing automatic eligibility to be considered for a range of special measures.
- i) **Protect security of tenure for domestic abuse victims:** This would ensure that where a local authority grants a new tenancy to a victim of domestic abuse who already has or had a lifetime tenancy, this must be a further lifetime tenancy if it is granted in connection with that abuse.

## D. Options

- 12. **Option 1:** is not to implement measures (a) to (i). This is the ‘do nothing’ option. While there are no costs associated with this option, it does not meet the Government’s objectives.
- 13. **Option 2:** To meet the policy objectives set out in paragraphs 9 and 10, the Government proposes to implement the legislative measures under Option 2 as set out in paragraph 11. **This is the Government’s preferred option.** Option 2 includes the legislative measures set out which collectively form a cohesive approach across the justice system to address issues relating to domestic abuse. The Government’s approach could be undermined if certain measures were excluded from the Bill. Therefore, although this IA estimates the potential impact of each measure separately, all measures are presented collectively in the summary of total costs in table 7, at the end of the appraisal section (E).

### (a) Introduce a statutory definition of domestic abuse

- 14. To meet the policy objectives, two options have been considered:
  - a) Option 1: **Do Nothing.** The current, non-statutory, cross-Government definition of domestic abuse would remain. However this would mean that the opportunity to increase awareness of the complexity of domestic abuse and to challenge the myths and stereotypes surrounding domestic abuse would be missed and other measures in the Bill would not be linked to a statutory definition.
  - b) Option 2: **Introduce a statutory definition of domestic abuse.** The statutory definition would provide a single definition of domestic abuse. This is not intended to automatically replace other references to domestic violence or abuse in legislation. Other references to domestic violence or abuse in legislation will be reviewed in line with the new definition in due course.
- 15. **Option 2 is the Government’s preferred option** because it would help ensure domestic abuse is properly understood to drive a much-needed wider culture change. Without a statutory definition, it would be more difficult to make clear the potential remit of the proposed Domestic Abuse Protection Orders and the Domestic Abuse Commissioner (option (b)), for instance. It would challenge assumptions that some people may have about domestic abuse; who constitutes a victim and what support is available for them as well as taking away the stigma from reporting or being seen as a DA victim. It would also create a definition to inform and be used in future work to tackle domestic abuse.

### (b) Create the role of Domestic Abuse Commissioner

- 16. To meet the policy objectives, two options have been considered:
  - a) Option 1: **Do Nothing.** This would maintain the status quo where the Government and its inspectorates drive improvements in tackling domestic abuse, and work with partners from the

domestic abuse sector to ensure the needs and experience of victims are included in policy making.

- b) Option 2: **Establish a Domestic Abuse Commissioner.** The Commissioner would stand up for victims and survivors, raise public awareness, monitor the response of statutory agencies and local authorities and drive improvements in tackling domestic abuse. The scale of the problem, combined with the broad range of Government Departments, statutory agencies and third sector organisations who play a role in responding to Domestic Abuse, means that a specific, cross-cutting Commissioner for Domestic Abuse is warranted. The Domestic Abuse Commissioner would be able to work with and collaborate with other Commissioners for victims (for example, the Victims Commissioner and Children's Commissioner).

17. **Option 2 is the Government's preferred option** because it would provide a louder voice for victims of domestic abuse and act as a 'critical friend' to ensure policies are fit for purpose and are achieving effective improvements.

**(c) Create a domestic abuse protection notice and order**

18. To meet the policy objectives, two options have been considered:

- a) Option 1: **Do Nothing.** This would maintain the current situation where a number of different civil orders are available to the courts but where there is not one clear route which can be used to specifically seek to secure protection for domestic abuse victims and which takes into account the varying (sometimes non-violent) forms such abuse may take.

There is a wide range of protective injunctions that can already be used in domestic abuse cases, including non-molestation orders, occupation orders, restraining orders, Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs). DVPNs and DVPOs are the only protective injunction specific to domestic abuse, but can only be made in limited circumstances; the others can be made in wider circumstances.

Orders vary in terms of who can apply for them, the conditions which may be attached and the consequences of breach. A range of parties including victims, agencies and the police can apply for different orders, although there is no single order that is available across the criminal, family and civil court jurisdictions.

Currently DVPNs and DVPOs can only be used in cases where there has been violence or a threat of violence and not in cases where the abuse was not violent (for example, coercive or controlling behaviour). DVPOs can only be in force for a maximum of 28 days. The current regime is focused on prohibitions rather than positive requirements (that is, perpetrators attending a domestic abuse behavioural change programme) or notification requirements and there are currently no express powers in legislation for the use of electronic monitoring (EM) in a civil order. Breaches of non-molestation orders and restraining orders are criminal offences however, breaches of DVPOs and occupation orders are not criminalised.

- b) Option 2: **Introduce a new Domestic Abuse Protection Notice (DAPN) and Protection Order (DAPO)** These would replace the Domestic Violence Protection Notice (DVPN) and Domestic Violence Protection Order (DVPO), combining the strongest elements of the existing regime to create a simpler and more flexible pathway for practitioners including the police seeking to protect domestic abuse victims.

Both the DVPN and the DAPO would be able to be used to protect victims from violent and non-violent abuse (which would now be within the scope of the definition of domestic abuse in the Bill). The DAPO would be available in the criminal, civil and family courts and would last for a specified period or until further order by the court (with the ability for variation, renewal or discharge of the order) and courts would be able to attach conditions to the order setting out both prohibitions and positive requirements, including electronic monitoring and notification requirements.

The Government would support legislating to introduce DAPNs and DAPOs with a programme of work which would include training, communications and awareness-raising for key agencies. While only courts may make them, DAPOs could be applied for by victims, the police, any specified third

party as set out in regulations<sup>11</sup>, and any other party given leave of the court to apply. In addition, the Bill will contain power for courts to make DAPOs of their own volition in appropriate cases, thus extending the protective reach of the order.

19. **Option 2 is the Government's preferred option.** This would introduce a 'go to' notice for the police (DAPN) and order (DAPO) for the courts which are envisaged to prove more effective at protecting victims as they could be used flexibly to cover all types of domestic abuse cases. Further, the conditions attached could be tailored according to the risk posed to the victim and for the time period required in order to provide the victim with meaningful and enforceable protection.

**(d) Extend extraterritorial jurisdiction**

20. To meet the policy objectives, two options have been considered:

- a) Option 1: **Do Nothing.** Not ratifying the Istanbul convention would entail forgoing an opportunity to ratify the Istanbul Convention, thereby foregoing an opportunity to demonstrate full commitment to ending violence against women and domestic abuse.
- b) Option 2: **Extend extraterritorial jurisdiction over specified offences as necessary for ratification of the Istanbul Convention.**

21. **Option 2 is the Government's preferred option** because it would enable the Government to move towards ratification of the Istanbul Convention, increasing protection for victims of those offences overseas. It would also enhance the reputation of the UK as a world leader in tackling domestic abuse and violence against women.

**(e) Place the guidance underpinning the Domestic Violence Disclosure Scheme (DVDS) on a statutory footing**

22. To meet the policy objectives, two options have been considered:

- a) Option 1: **Do Nothing.** This would maintain the current situation where the scheme is not consistently applied across forces. This likely results in missed opportunities for the scheme to be used and potentially reduces the sharing of information with potential victims of domestic abuse.
- b) Option 2: **Place the guidance underpinning Domestic Violence Disclosure Scheme on a statutory footing:** This would require the police to have regard to the guidance and so improve consistency in the application of the scheme.

23. **Option 2 is the Government's preferred option** because it would raise awareness of the DVDS and drive better consistency in its application

**(f) Prevent cross examination in person in specified circumstances in family proceedings**

24. To meet the policy objectives, two options have been considered:

- a) Option 1: **Do nothing.** No changes are made to the primary legislation concerning the cross-examination of vulnerable witnesses in family proceedings.
- b) Option 2: **To make provision in primary legislation for the prohibition or prevention of cross-examination in person in specified circumstances in family proceedings, and to give courts the power to appoint legal representatives funded from central funds to undertake cross-examination in specified circumstances.**

25. **Option 2 is the Government's preferred option.** Currently, family courts have some powers to prevent cross-examination in person and to provide for alternative means of cross-examination (e.g. cross-examination conducted by judge or justices' clerk) but they have no power to appoint a funded legal representative to conduct the cross-examination on the party's behalf. This means that, in

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<sup>11</sup> It is anticipated that probationary services and local authorities will be able to apply for DAPOs. Specialist support organisations such as iDVAs may potentially also be able to apply for DAPOs.

some circumstances, and particularly in complex cases, the current powers may not be sufficient to safeguard the European Convention of Human Rights Article 6 and 8 rights of the party prevented from conducting cross-examination. The courts have also been reluctant to use the powers available to them even in cases where alternative methods of cross-examination would be sufficient to safeguard those rights. While avoiding additional departmental expenditure, this would not meet the policy objectives and concerns of stakeholders. Option 2 would establish a clear prohibition and a system for the use of alternative methods of cross-examination including, where necessary, the appointment and funding of legal representatives.

**(g) Subject high risk domestic abuse offenders on licence to mandatory polygraph examinations.**

26. To meet the policy objectives, two options have been considered:

- a) Option 1: **Do Nothing**. At present the NPS and other agencies do work closely together to monitor the licence conditions of high risk domestic violence perpetrators. However, knowing whether or not the offender has breached their licence conditions is often reliant upon self-reporting or, for instance, on the contested reports of observers regarding breach of a non-contact condition. This leaves high risk offenders considerable scope to breach their licence conditions without any detection of their actions.
- b) Option 2: **Implement primary legislation to impose mandatory polygraph examinations on high risk of harm domestic abuse perpetrators on licence across England and Wales**. This would involve an initial 3-year pilot, with a view to full roll out providing the results of the pilot demonstrated that there were clear informational benefits to offender managers. An offender would not be recalled to custody for failing a polygraph examination, nor could information gathered during the polygraph be used in courts. However, if the offender makes disclosures that indicate they have breached other licence conditions or that the risk has increased to a level whereby they can no longer be safely managed in the community, then recall could be instigated. Information gleaned in polygraph tests could also trigger further investigation. In addition, if the offender refuses to take the test, or attempts to sabotage it in any way, then recall may take place.

27. **Option 2 is the Government's preferred option**. Although there is a body of evidence on the reliability of the polygraph in general terms and the NPS polygraph examinations of sexual offenders has proved to be successful, there is currently very little evidence of its potential with domestic abuse perpetrators.

**(h) Create a legislative assumption that all adult domestic abuse victims are to be treated as eligible for special measures in the criminal courts on the grounds of fear and distress (if the victim wants such assistance):**

- a) Option 1. **Do nothing**. At present, courts must decide whether a victim or witness is eligible for special measures to reduce stress associated with the giving of evidence on grounds of age or disability ("vulnerable witness") or on grounds of fear or distress ("intimidated witness"). Secondly, the court must consider whether any of the available special measures are likely in that particular case to improve the quality of the evidence and if so, which measure or combination of measures would achieve this. While some victims of domestic abuse may qualify as intimidated witness, not all would be eligible.
- b) Option 2. **Create a legislative assumption that adult domestic abuse victims are to be treated as eligible for special measures on the grounds of fear and distress (if the victim wants such assistance)**.

28. There are a range of special measures that adult victims of domestic abuse could automatically be eligible to be considered for (special measures are already available to all under 18s, who are therefore not impacted by this policy measure). The special measures in question fall under the Criminal Evidence Act 1999 (YJCEA) and include:

- Screening a witness from seeing the defendant;
- Allowing a witness to give evidence by live video link;
- Hearing a witness in private;
- Dispensing with wearing of wigs and gowns;
- Admitting video-recorded evidence as evidence in chief and cross-examination<sup>12</sup>;

29. **Option 2 is the Government's preferred option.** While automatic eligibility would not necessarily guarantee that a special measure will be granted in any particular case, it would remove the step of the victim having to establish eligibility on grounds of being in fear and distress. This would bring domestic abuse victims in line with complainants in modern slavery offences and sexual offences, who are treated as eligible for special measures on grounds of fear and distress.

(i) **Ensure that where a local authority grants a new tenancy to a victim of domestic abuse who already has or had a lifetime tenancy, this must be a further lifetime tenancy if it is granted in connection with that abuse.**

30. This measure is within this proposed Bill. The full details of the measure have previously been published in the Department for Communities and Local Government's 'Secure Tenancies (Victims of Domestic Abuse) Bill 2017-19: Note of impacts'.<sup>13</sup>

31. When local authorities are re-housing an existing lifetime tenant who needs to move or has recently moved from their social home to escape domestic abuse, or are granting such person a new sole tenancy in their existing home after the perpetrator has left/been removed, the tenant will be given a further lifetime tenancy. These measures will ensure that the use of fixed term tenancies is not a disincentive to prevent those who suffer domestic abuse from leaving the perpetrator and that the victims are provided with stability and security in their home. The secure tenancies measures within this draft Bill will apply to tenants of local authorities and Private Registered Providers of social housing (housing associations) in England.

## E. Appraisal

32. This IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society could be as a result of implementing the preferred option. The costs and benefits of each measure are compared to the 'base case' option (Option 1: 'Do nothing'), that is, where the proposed measures in the Bill are not introduced. As this would involve comparing the base case option to itself, its costs and benefits are necessarily zero as will be its Net Present Value (NPV).

33. For the majority of the measures, there are only estimated monetised costs and it has not been possible to monetise benefits. This is because there is less certainty around the modelling of benefits, as the benefits either cannot be monetised (for instance, victims feeling safer) or rely on an observed decrease in domestic abuse offences or the seriousness of domestic abuse offences. The non-monetised benefits for victims and wider society are summarised under the relevant measures below and in a narrative at the end of this section where the benefits associated with all the measures are discussed (paragraphs 164-171). By their nature, these benefits do not imply that the

<sup>12</sup> To date, video recorded cross-examination has only been rolled out to vulnerable witnesses in 3 Crown Courts to date and will only be rolled out to Crown Courts – not magistrates – in respect of vulnerable witnesses. There will be a test for use of pre-recorded cross-examination in relation to victims of sexual offences and modern slavery offences in 3 Crown Courts. This will inform whether pre-recorded cross-examination is feasible for intimidated witnesses more widely in England and Wales.

<sup>13</sup> <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsofdomesticabuse/documents.html>

measures would be financially cost-neutral for Government as many would accrue to the victims rather than take the form of cashable savings.

34. All monetised costs have been included in 2018/19 prices. Where these estimated costs were based on different price years, these have been adjusted according to the latest GDP deflator. Present value costs have been estimated over a 10-year appraisal period from 2018/19 to 2027/28 with an implementation year of 2020/21<sup>14</sup>, discounted by the social rate of discount, 3.5 per cent per year<sup>15</sup>. Unit costs have been provided by each justice system agency and details on these costs are provided in the relevant sections.
35. Optimism bias of 15 per cent has been applied to all estimated costs and savings<sup>16</sup> due to the various cost uncertainties with the measures, and to counterbalance the psychological tendency among appraisers to undervalue costs of policy measures<sup>16</sup>. Note that underlying volume and unit costs figures presented below do not have optimism bias applied. Instead, optimism bias is applied to estimated summary costs. While presented as a single option, each of the measures outlined above have been modelled separately, and presented as such in the cost-benefit analysis.
36. The main identified drivers of estimated costs to the justice system associated with measures in the Bill are prison place impacts of measures (c) and (d), legal aid payments of measures (c), (d) and (f) and HMCTS resource costs of measure (c).
37. Measures (c) and (e) present a range of estimates, recognising that there are areas where assumptions are uncertain.
38. These estimates depend on a number of modelling assumptions and cannot be regarded as firm predictions. For further detail regarding the assumptions used in analysis, and associated risks, refer to the 'Risks and assumptions' section which includes a breakdown by measure.
39. The Ministry of Housing, Communities and Local Government (MHCLG) has confirmed that the expected impact of the secure tenancies provisions remains as the Department for Communities and Local Government set out in the 'Secure Tenancies (Victims of Domestic Abuse) Bill 2017-19: Note of impacts'.<sup>17</sup> The NPV of this option is therefore not included in the overall NPV of the preferred option.

**(a) Update the Government definition of domestic abuse to recognise that it can extend beyond violence into other forms of abuse, particularly economic abuse;**

**Costs of Measure (a)**

*Monetised costs*

40. It has not been possible to identify any monetised costs associated with this measure.

*Non-monetised costs*

41. Enshrining the definition in statute is likely to have very little cost attached to it as it is envisaged that it would largely mirror the existing non-statutory Government definition (with the exception of the inclusion of economic abuse). The definitions used by Government agencies in other legislation would not be superseded by the statutory definition.
42. The inclusion of 'economic' rather than just 'financial' abuse is likely to have very little cost impact in practice. The change in wording is to clarify that economic domestic abuse can include more than limiting or depriving victims of money. For example; it can include debt bondage or preventing the victim from getting a job.

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<sup>14</sup> Costs do not include costs associated with measure (i).

<sup>15</sup> <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

<sup>16</sup> Costs do not include costs associated with measure (i)

<sup>17</sup> <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsofdomesticabuse/documents.html>

## **Benefits of Measure (a)**

### *Monetised benefits*

43. It has not been possible to identify any monetised benefits associated with this measure.

### *Non-monetised benefits*

44. Placing the government definition of domestic abuse into statute would send a clear message about the seriousness of these offences and make a clear statement of their unacceptability within our society. It would also raise awareness and improve understanding of the many forms domestic abuse can take.
45. Furthermore, the government is aiming to promote a culture change around domestic abuse by explicitly including non-violent domestic abuse, and particularly economic abuse within the definition. This is aimed to help police and other agencies better understand the many and varied forms that domestic abuse can take.

## **Net quantifiable impacts of Measure (a)**

46. It has not been possible to quantify the net estimated impacts associated with this measure.

## **(b) Create the role of Domestic Abuse Commissioner:**

### **Costs of Measure (b)**

#### *Monetised costs*

47. The budget for the Domestic Abuse Commissioner is likely to be around £1 million per year which would be provided by the Home Office. With the additional 15 per cent optimism bias applied this is estimated at £1.1 million per year. This would provide for the Commissioner's salary and variable overhead costs, as well as the employment of a team of support staff. It assumes the Commissioner would be supported by up to 15 staff consisting of policy, research and administrative support staff. It would enable the Commissioner and their staff to travel, conduct research and produce reports, as the role requires. There would be no further costs involved in this provision. Over a 10 year appraisal period from 2018/19, the estimated Net Present Cost (NPC) is £7.4 million (PV).

#### *Non-monetised costs*

48. There are no identified non-monetised costs associated with this measure.

### **Benefits of Measure (b)**

#### *Monetised benefits*

49. The Government has been unable to monetise the benefits of this policy measure.

#### *Non-monetised benefits*

50. The Domestic Abuse Commissioner would provide public leadership on domestic abuse issues, raising awareness of what domestic abuse is to increase understanding and reporting. Increased awareness by the victim, and those close to the victim, of the patterns of behaviour associated with domestic abuse is likely to increase reporting rates to the police. This is likely to allow domestic abuse to be reported earlier allowing the police to intervene and prevent the abuse from escalating<sup>18</sup>.
51. The Domestic Abuse Commissioner would also be able to challenge a wide range of public agencies to improve their response to domestic abuse and promote channels of support to victims of domestic

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<sup>18</sup> Currently victims of domestic abuse are unlikely to report the abuse in its early stages. A report from SafeLives suggests victims of domestic abuse have to wait for between 2.5 and 3 years on average before getting effective help and that victims report abuse to the police between 2 and 3 times on average in the year before getting effective help  
<http://www.safelives.org.uk/sites/default/files/resources/Getting%20it%20right%20first%20time%20-%20complete%20report.pdf> (pg. 13).

abuse<sup>19</sup>. This should result in a better local and national response to domestic abuse through early intervention to reduce escalation of abuse, increase reporting and provide better support to victims.

52. The Domestic Abuse Commissioner would engage with a wide range of Government Departments, statutory agencies and third sector organisations, who all play a role in responding to domestic abuse, and would also be able to work with other Commissioners (e.g., the Victims' Commissioner, Children's Commissioner) to champion the needs of victims and their children.

### **Net quantifiable impacts of Measure (b)**

53. The estimated quantified net impact of this measure, assessed in isolation, is a £1.1 million cost per year. Over a 10-year appraisal period from 2018/19, the estimated Net Present Cost (NPC) is £7.4 million (PV).

### **(c) Create a domestic abuse protection notice and order;**

54. The estimated impacts of measure (c) fall into two broad categories: impacts associated with process change and those associated with scope widening:
- Process change<sup>20</sup> refers to the existing elements of the protective order framework that measure (c) proposes to change for the baseline volume of orders granted (for example, greater use of positive requirements and criminalisation of breach). Modelling assumes 32,300 DAPOs will be made in a civil context<sup>21</sup> and 20,700 DAPOs made in the criminal court on conviction or acquittal of an offence<sup>22</sup> annually.
  - Scope widening refers to the start to end impacts of a given percentage increase in the annual volume of protective order applications (from application stage through to proceedings flowing from a breach, if applicable).
55. Process change impacts can be attributed to the following three changes to the protective order process, as included in the measure:
- i. Extending the duration of police-led DAPOs from the current DVPO maximum duration of 28 days (with the length of each DAPO remaining discretionary).
  - ii. Expanding the powers of judges to attach conditions to protective orders (such as positive requirements and Electronic Monitoring (EM)).
  - iii. Criminalising breach of DAPOs.
56. Of the changes outlined above, criminalisation of breach (iii) accounts for the largest proportion of estimated impacts associated with process change.
57. The number of protective order applications could increase through the broadening of the application routes i.e. by allowing organisations to apply on behalf of victims<sup>23</sup>. Due to uncertainties about the impact of this measure, an increase in application volumes of between 5 to 10 per cent has been assumed. The estimates below present a range of impacts based on this assumption.

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<sup>19</sup> For example, it is known that those victims who have access to the support of an Independent Domestic Violence Adviser experience improved feelings of wellbeing and safety <http://www.communitycare.co.uk/2010/01/21/the-role-of-independent-domestic-violence-adviser-services/>

<sup>20</sup> Process change does not refer to implementation costs (for example, training and IT) that will be incurred to enable the above changes to protective order processes to take place.

<sup>21</sup> Based on the volumes of DVPOs, non-molestation orders, occupation orders and restraining orders granted on acquittal as of year ending June 2016.

<sup>22</sup> Based on the volumes of restraining orders granted on conviction as of year ending June 2016.

<sup>23</sup> Voluntary or statutory agencies could apply for a protective order on behalf of the victim, depending on how support provision is managed in the local area.

58. Modelling of scope widening includes the estimated impacts for the following activities relating to protective orders: application, court hearing, conditions/monitoring and breach. The summary of monetised impacts from scope widening are presented from paragraphs 73 to 85<sup>24</sup>.

### **Costs of Measure (c)**

#### *Monetised costs*

##### Process change

59. Where possible, the monetised costs of each process change listed in paragraph 55 are outlined below.

- i. Extending the duration of police-led DAPOs from the current DVPO maximum duration of 28 days – Impact has not been quantified as it is expected to be minimal. Further detail is included in the ‘non monetised costs’ section.
- ii. Expanding the powers of judges to attach conditions to protective orders (such as positive requirements and EM) – The costs to the justice system of funding the additional provision of positive requirements, such as protective order conditions, are covered below. Costs associated with the increased use of EM as a DAPO condition have not been monetised. This is explained under ‘non monetised costs’.

#### *Positive requirements*

60. Modelling has assumed a 30 percentage point increase<sup>25</sup> in the proportion of DAPOs requiring a positive requirement (that is, participation in a perpetrator programme) as a condition due to the process change. Applying this assumption to the relevant subset of baseline protective order volumes suggests approximately 14,500 DAPOs could have a positive requirement.

61. These positive requirements are assumed to be funded by the police and others (such as local authorities, PCCs and the perpetrators themselves). An example of a perpetrator programme is a short awareness raising programme of workshops such as the Project CARA scheme (as trialled by Hampshire Constabulary<sup>26</sup>). Estimated agency impacts associated with provision of additional programmes are as below (however costs could be higher if more expensive programmes are used):

- Police: £70,000 per year (assuming that 4% of low-cost programmes are funded by the police<sup>27</sup>).
- Other: £1.7 million per year (assuming that 96% of low-cost programmes are funded by the other agencies and individuals). Without a better understanding of the funding split of these perpetrator programmes, analysis has grouped together these impacts and allocated them to ‘Other groups’.
- Electronic Monitoring costs have not been monetised for the purposes of this IA.
- No costs to any agencies have been assumed for the attachment of notification requirements<sup>28</sup>.

#### Criminalising breach of DAPOs

62. Criminalisation of breach could impact justice system agencies through additional breach proceedings in the criminal courts (impacting HMCTS and the LAA) and the subsequent disposal of

<sup>24</sup> Modelling of scope widening impacts includes the process changes (for example, increased use of conditions and criminalisation of breach) that have been costed for the baseline volume of orders, to reflect the new processes that would occur for all new applications and orders granted.

<sup>25</sup> Due to unavailable data on the number of orders with a positive requirement as a condition, modelling has assumed a baseline of zero (that is, no orders currently have positive requirements attached as a condition).

<sup>26</sup> Details of Project CARA and analysis of the randomised controlled trial were published in the Cambridge Journal of Evidence Based Policy: <https://link.springer.com/content/pdf/10.1007%2Fs41887-017-0007-x.pdf>

<sup>27</sup> Analysis provided by Safe Lives to the Home Office on commissioning of domestic abuse services, in general, has informed this assumption. More information is needed to better understand the funding split and estimate which organisations could bear the impact of an increase in perpetrator programmes attended.

<sup>28</sup> Likewise, no costs of breach of notification requirements have been modelled.

convicted defendants to custodial or community supervision (impacting HMPPS). Estimated agency impacts are summarised below in paragraph 72.

63. There are two domestic abuse related protective orders in scope for this process change whereby breach is not currently a criminal offence: the DVPO and the occupation order. The assumed breach rates for these orders is 27 per cent<sup>29</sup>. Assuming all of these breaches would, following implementation of the DAPO, require a hearing in the criminal courts, there could be an estimated 1,400 additional hearings in the criminal courts. The location of hearings, between the magistrates' and Crown Courts, is based on the split for proxy offences (for example, breach of a non-molestation order). Incorporating this split allows our modelling to reflect the differing costs associated with hearings at magistrates' and Crown Courts. Data on location split is not available at the offence level, so the split of the offence category for which these proxy offences fall under, which is 'public order offences', is used (93% in the magistrates' courts and 7% in the Crown Courts)<sup>30</sup>.
64. All criminal proceedings would be subject to pre-charge advice, which is provided by the CPS. The national average consultation rate of 1.27 consultations per defendant has been applied to the anticipated volumes. In addition, the CPS provide representation to support the prosecution in court, applying contest rates to the estimated additional 1,400 hearings in the criminal courts. Contest rates represent the proportion of proceedings where the CPS are involved and a guilty plea is not made, or the plea outcome is mixed. CPS modelling assumes that approximately 14 per cent of magistrates' courts and 19 per cent of Crown Court proceedings are contested. These contest rates are provided by the CPS and are based on the principal offence category and mode of trial (for example, triable either way or indictable only) most appropriate to the breach of protective order offence. The CPS estimated costs based on their National Resource Model for each type of proceeding (based on unit costs for guilty plea and contested proceedings in the magistrates' courts and Crown Court).
65. Criminalisation of breach would have a potential impact on the LAA in the form of criminal representation at additional breach proceedings progressing through the criminal courts. Modelling assumes that 50 per cent of defendants in the magistrates' courts and 93 per cent<sup>31</sup> of defendants in the Crown Court would receive criminal legal aid representation.
66. If breaches of DAPOs lead to a custodial or community sentence, where this was not previously the available disposal, there could be an additional cost to HMPPS of supervising these offenders. Applying the conviction rate of breached non-molestation orders, as a proxy offence, to the estimated 1,400 breached protective orders results in an additional estimated 1,000 convictions<sup>32</sup>. Of those convicted, modelling assumes 17 per cent receive custodial sentences, including supervision on licence, 42 per cent receive community or suspended sentences with the remaining receiving other disposals (for example, fine or conditional discharge).
67. *Custodial sentences*: Assuming the disposal distribution of non-molestation orders as a proxy, this could result in approximately an additional 200 custodial sentences<sup>33</sup>. The Average Custodial

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<sup>29</sup> Data provided to the Home Office by Her Majesty's Inspectorate of the Constabulary, Fire and Rescue Services for year ending June 2016 showed a breach rate of 28 per cent. Published data for the same time period shows the breach rate of non-molestation orders to be 28 per cent also. In the absence of breach data on occupation orders, the breach rate of non-molestation orders has been assumed.

<sup>30</sup> Based on the 2016 'prosecutions and convictions tool' published by CJS statistics.

<sup>31</sup> Criminal Court statistics (2016) show that 93 per cent of defendants in the Crown Court are represented. Legal aid impacts would, therefore, only apply to this proportion of defendants. Within this group, there is an unknown proportion of defendants that are represented privately. Modelling has assumed close to 100 per cent eligibility for those represented defendants as a working assumption, and reflecting the fact that all defendants, even if privately represented, will need to apply for legal aid if they wish to seek reimbursement from central funds for private representation. Latest published statistics: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/623096/ccsq-bulletin-jan-mar-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/623096/ccsq-bulletin-jan-mar-2017.pdf)

<sup>32</sup> Assuming that 74 per cent of prosecutions for public order offences reach a conviction, according to the CJS statistics (2016): <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2016>

<sup>33</sup> The "do nothing" disposal distribution for those who currently breach a DVPO or an occupation order would be the disposal outcomes for 'civil contempt of court'. Sentencing outcomes are not available in published or internal MoJ statistics for this group of offenders. The nearest offence, therefore, to capture the 'current' sentencing distributions for this group of perpetrators is: 195 Magistrates Courts Act 1980 (except S.106). This looked to be the closest offence to 'Magistrates Courts Act 1980 (section 63)'. The majority of those sentenced in the 'current' distribution receive a 'total otherwise dealt with' disposal. The impacts associated with using the proxy offence, therefore, show a considerably large volume shift of offenders from one disposal to others.

Sentence Length (ACSL) for the proxy offence is approximately four months<sup>34</sup>. Assuming that each offender receiving a custodial sentence spends on average two months in custody (based on spending half of the four-month sentence in custody and the rest on community supervision), there would be an estimated impact to HMPPS of approximately 30 additional FTE prison places per year. At an average yearly cost of £25,500 per place, this would equate to around £0.7 million per year<sup>35,36</sup>.

68. *Probation supervision on licence*: Depending on the offender's sentence length, half of their custodial sentence would be spent under community supervision. If the sentence length is under two years, then an offender would receive community supervision for a 12-month period as a minimum. Therefore, as the ACSL of the proxy offence (breach of a non-molestation order) is four months, there would be an estimated increase in the number of offenders receiving 12-month supervision. The total estimated impact to HMPPS associated with the additional 200 offenders receiving supervision on licence, after time in custody, is £0.5 million (including pre-assessments conducted by the NPS and management of offenders by both NPS and CRCs<sup>37</sup>).
69. *Community sentences*: Using the proxy offence (breach of a non-molestation order), criminalisation of breach could result in an additional 500 community and suspended sentence orders, requiring offender management supervision by the NPS and CRCs. The total estimated impact to HMPPS associated with this increase in offenders receiving community and suspended sentence order supervision is £2.7 million per year (including pre assessments conducted by the NPS and management of offenders by both NPS and CRCs<sup>38</sup>).
70. To summarise, applying the disposal distribution of the proxy offence results in an estimated 200 custodial sentences, 500 community/suspended order sentences and a remaining 300 sentences which are spread across disposals such as compensation, fines and 'total otherwise dealt with', which do not have a downstream cost for the justice system.
71. The estimated agency impacts of criminalising breach are summarised as follows:
- HMCTS (crime): £1.0 million per year associated with 1,400 additional breach proceedings.<sup>39</sup>
  - CPS: £0.4 million per year<sup>40</sup> associated with the pre-charge advice and contest rates for an additional 1,400 breach proceedings.
  - LAA (crime): £0.8 million per year (applying the relevant internal unit costs<sup>41</sup> to an estimated 740 additional breach proceedings with LAA criminal representation).
  - HMPPS: £4.0 million per year (including 30 additional prison places excluding capital costs, pre-assessments by the NPS and supervision of 700 offenders by the NPS and CRCs)

<sup>34</sup> Based on the published December 2016 'criminal justice statistics outcomes by offence tool'.

<sup>35</sup> Based on published costs of annual prisoner places:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/653972/costs-per-place-per-prisoner-2016-2017-summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653972/costs-per-place-per-prisoner-2016-2017-summary.pdf)

<sup>36</sup> It should be noted that prison costs do not account for any potential additional capital costs that might be associated any construction of new facilities.

<sup>37</sup> For offenders on licence: HMPPS outturn data for 2015/16 has informed the assumption that 19 per cent of offenders on licence for 12 months are managed by the NPS and 81 per cent are managed by the CRCs.

<sup>38</sup> For offenders receiving supervision as part of a community or suspended sentence: HMPPS outturn data for 2015/16 has informed the assumption that 10 per cent of offenders are supervised by the NPS and 90 per cent by the CRCs.

<sup>39</sup> Applying internal unit costs for 'public order offence' trials in the magistrates' and Crown Court respectively.

<sup>40</sup> Cost estimates provided by the CPS are based on the CPS National Resource Model (NRM) which is used to determine a unit cost figure for guilty plea and contested proceedings in the magistrates' and Crown Court. Unit costs represent CPS activity and are based on basic salary costs, excluding overheads and other corporate services. Costs are indicative only and do not necessarily represent the actual cost of each defendant outcome. There can be considerable variations in cost (both between and within offence types) depending on the characteristics of each case.

<sup>41</sup> Unit costs for magistrates' representation have been provided for conviction or acquittal outcomes. Defendants in the magistrates' are split according to the assumption that 74 per cent of public order offences reach a conviction. Therefore, of the 50 per cent of defendants receiving representation in the magistrates' courts, the conviction unit cost is applied to 74 per cent and the acquittal unit cost is applied to the remaining 26 per cent.

**Table 1: Summary of total estimated monetised costs associated with all process change impacts, by justice system agency (£m, 2018/19 prices)**

Justice system agency	Estimated economic cost from process change
Police	0.1
CPS	0.4
HMCTS	1.0
LAA	0.8
HMPPS	4.0
Other	1.7
<b>Total</b>	<b>8.0</b>

Costs include 15 per cent optimism bias. HMPPS estimates include CRC payments. Table represents an aggregate of costs associated with several aspects of process change. Figures may not sum due to rounding.

### Scope widening

72. The estimated monetised costs associated with scope widening are broken down by the stage of the process (from application through to breach), as detailed below:

#### Application

73. There would be additional agency costs associated with processing and supporting applicants for an additional 5 to 10 per cent estimated increase in applications. It is estimated that the widening of application routes could increase the volume of DAPO applications as specified agencies could apply on a victim's behalf<sup>42</sup>. In addition, the broader definition of domestic abuse (as opposed to domestic violence) would create a protective order for victims of non-physical domestic abuse. This would also increase the volume of DAPO applications. Without data to inform an actual percentage increase, analysis illustrates the potential impacts of the assumed increase. These impacts are summarised below in paragraph 83.
74. Police: a 5 to 10 per cent increase in application volumes per year could require additional police time working with other agencies to support applications.
75. HMCTS: Currently, protective orders are not applied for and granted in the criminal court. The protective orders measure would change this as it enables the DAPO to be made across all jurisdictions. Therefore, the modelling has broken down the estimated impacts of the additional protective orders by jurisdiction using the proportion of current orders heard in each jurisdiction<sup>43</sup>.
76. The estimated increase in DAPO applications to a civil court<sup>44</sup> (1,300 - 2,700) has been apportioned to each of the current protective orders based on their contribution to the total baseline volume<sup>45</sup>. HMCTS admin unit costs (excluding estates and overheads) have been applied, to reflect the resource time required for this activity.

<sup>42</sup> It would also widen the scope of potential victims in terms of their personal characteristics and vulnerabilities. This scope widening is incorporated into the assumed 5 to 10 per cent increase in applications.

<sup>43</sup> Currently, DVPOs are processed in the magistrates' courts whilst non-molestation and occupation orders are processed in the family courts.

<sup>44</sup> DAPOs made in the criminal court on conviction of an offence are assumed to work similarly to the current restraining order, where a decision is made regarding granting a protective order at the sentencing stage of criminal proceedings for a separate offence. There is consequently no application cost in the modelling for on-conviction or acquittal DAPOs. There is no data on the time taken to make a decision on granting a restraining order, so it is therefore not possible to monetise the time taken on 'application' type activities.

<sup>45</sup> In mapping the 2015/16 baseline order volumes to the proposed DAPO framework, the volumes of DAPOs made in a civil courts are made up of: non-molestation orders (74 per cent), DVPOs (12 per cent), occupation orders (7 per cent) and restraining orders upon acquittal (6 per cent). Percentages do not sum to 100 per cent due to rounding.

77. LAA: Unlike the HMCTS impacts described above, LAA impacts have not been modelled for the application stage because applications are either police-led (assuming there is no provision of LAA funding to the police) or the application support cost (that is, legal help) cannot be separated from the overall cost of civil representation at a court hearing. The unit cost of civil representation used in the 'Court hearing' section includes some element of legal help, so this impact is captured later in the IA.
78. The estimated agency impacts associated with a 5-10 per cent increase in applications are as follows:
- Police: £0.4 to £0.8 million per year (applying internal staff resource unit costs, as informed by the DVPO pilot).
  - HMCTS: £0.3 to £0.5 million per year (including £0.1 to £0.3 million and £0.1 to £0.3 million costs to the civil<sup>46</sup> and criminal<sup>47</sup> jurisdictions respectively. Unit costs of administration resource time have been applied<sup>48</sup>).

### Court hearing

79. Once the application for a protective order has been received and administered by the courts, there would be agency impacts associated with processing the order through a hearing in the relevant jurisdiction.
80. LAA: modelling includes costs to the LAA associated with civil representation for victims (the applicants) and criminal representation for defendants (the perpetrators). Assuming 10 per cent of defendants currently receive legal aid representation in DVPO applications<sup>49</sup>, the estimated impact of criminal representation to the LAA associated with approximately 20 to 40 additional defendants is estimated to be <£0.1 million per year.
81. Typically, victims make an application to the family court for a domestic abuse related protective order (for example, a non-molestation or occupation order). Modelling assumes that 50 per cent of applicants receive civil representation<sup>50</sup> (including assistance with the application before the court hearing). Modelling considers the estimated impact to the LAA of civil representation in approximately 600 to 1,100 additional applications (associated with an additional 5-10% in applications respectively).
82. The estimated agency impacts associated with a 5-10 per cent increase in court hearings are as follows:
- HMCTS: £0.2 to £0.5 million per year (including £0.2 to £0.3 million and £0 to £0.1 million<sup>51</sup> costs to the civil and criminal jurisdictions respectively. Unit costs of judicial resource time have been applied<sup>52</sup>.)
  - LAA: £2.1 to £4.1 million per year (mostly associated with civil representation<sup>53</sup> and <£0.1 million in criminal representation costs<sup>54</sup>).

### Conditions

<sup>46</sup> Costs associated with processing applications made by the victim to the family courts (as per the current occupation and non-molestation orders).

<sup>47</sup> Costs associated with processing applications made by the police to the magistrates' courts (as per the current DVPO).

<sup>48</sup> Unit costs represent staff time only, excluding estates and overhead costs.

<sup>49</sup> Based on MoJ analysis of DVPO pilot data.

<sup>50</sup> MoJ analysis has found that approximately 50 per cent of private family law applications are made ex-parte to the family court (that is, where the respondent is absent). Modelling has assumed an upper bound of 50 per cent representation for applicants, covering all of those applications made when the applicant is present in court.

<sup>51</sup> Figures may not sum due to rounding.

<sup>52</sup> Unit costs represent staff time only, excluding estates and overhead costs.

<sup>53</sup> Applying the average cost to the LAA of a Domestic Violence certificate as a proxy for the costs associated civil representation at this type of hearing in the family court (total civil representation costs met by the LAA/completed civil certificates). Source – Legal Aid statistics January to March 2017: <https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2017>

<sup>54</sup> Unit costs of criminal LAA representation were calculated by the MoJ using LAA spend results from the DVPO pilot.

83. Applying the same assumptions as per paragraphs 61 and 61 relating to the attachment of conditions to protective orders (for example, 30 per cent of DAPOs to have a positive requirement condition), the estimated agency impacts associated with a 5-10 per cent increase in orders granted are summarised in the paragraph below.
84. Based on the estimated annual increase in numbers of DAPOs granted, there could be an estimated additional 700 to 1,500 orders per year with positive requirements attached as a condition. The impacts associated with the increased application of positive requirements are:
- Police: £3,500 to £7,000 per year (funding 4 per cent of an additional perpetrator programmes)
  - Others: £0.1 to £0.2 million per year (funding 96 per cent of additional perpetrator programmes)
  - Electronic Monitoring costs have not been monetised for the purposes of this IA.

### Breach

85. Modelling the estimated impacts of additional breaches associated with a 5-10 per cent increase in protective orders made follows a similar approach, and uses the same assumptions as those outlined in paragraphs 63 - 71. Estimated agency impacts associated with additional instances of breach are outlined below:
- Police: £1.0 to £1.8 million per year (assuming a domestic incident police response<sup>55</sup> and the subsequent police actions undertaken following the additional 1,300 to 2,400 estimated breaches<sup>56</sup>).
  - HMCTS (crime): £1.0 to £1.8 million per year (assuming the average breach rates of the current orders that would fall under the DAPO made in a civil context (27 per cent) and the restraining order upon conviction, translating into the DAPO made in the criminal court upon conviction of an offence (73 per cent), there could be an estimated additional 1,300 to 2,400 breach proceedings progressing through the criminal courts annually)
  - CPS: £0.3 to £0.6 million per year (assuming the pre-charge advice consultation and contest rates described above, as provided by the CPS, to the estimated additional 1,300 to 2,400 breach proceedings)
  - LAA (crime): £0.7 to £1.3 million per year (assuming criminal representation for 50 per cent and 93 per cent of defendants tried in the magistrates' and Crown Court respectively for an estimated additional 1,300 to 2,400 breach proceedings, most of which are tried in the magistrates' courts<sup>57</sup>).
  - HMPPS: £3.4 to £6.4 million per year<sup>58</sup> (including an additional 40 to 80 prison places<sup>59</sup>, supervision of an additional 260-490 offenders on licence and an additional 400 to 700 offenders receiving community and suspended sentences). Costs include CRC<sup>60</sup> payments.

<sup>55</sup> The domestic incident cost of £440 has been taken from the Economic and Social Costs of Domestic abuse publication.

<sup>56</sup> Informed by the police actions undertaken following a breach within the DVPO evaluation. Source: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/506148/2016-03-08\\_DVPO\\_report\\_for\\_publication.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/506148/2016-03-08_DVPO_report_for_publication.pdf)

<sup>57</sup> Based on our assumption that 93 per cent of breach hearings will be tried in the magistrates' court and 7 per cent in the Crown court, which itself is taken from existing breach data for non-molestation orders. Implicitly, it is assumed that of the 93 per cent due to be heard in the magistrates', none will elect to be tried on indictment in the Crown court.

<sup>58</sup> Custodial impacts applied the unit cost of a prisoner place from a NOMS published report (2015/16) and community supervision costs for the NPS and CRCs were provided internally, including pre-assessment costs. Unit costs used for CRC activities exclude service credits and Payment by Results payments/penalties.

<sup>59</sup> It should be noted that prison costs do not account for any potential additional capital costs that might be associated any construction of new facilities.

<sup>60</sup> Assuming the same split of NPS/CRC managed offenders as process change analysis: 10 per cent of offenders on licence managed by the CRCs and 19 per cent of offenders on community/suspended sentence orders (under 12 months) managed by the CRCs. The remainder offenders are supervised by the NPS.

## *Non-monetised costs*

### Process change and scope widening

86. Where a non-monetised cost associated with one of the various process changes has been identified, these are outlined below. As scope widening impacts include the process changes, the non-monetised costs identified here are relevant to both sets of impacts.

#### *i. Extending the duration of police-led DAPOs from the DVPO current maximum duration of 28 days*

87. Police: There could be some small impacts to the police associated with increasing the duration of the DAPO from the current 28-day maximum DVPO duration. These impacts have not been monetised as the majority of the work is done at the beginning of the application process. The extra resource required for monitoring compliance with the DAPO over an extended period of time would have little anticipated impact.

#### *ii. Expanding the powers of judges to attach EM conditions*

88. Police: If a greater volume of protective orders have EM attached as a condition, additional police time would be required for the police to respond to alerts generated by the tags and enforcing them. This is likely to result in increasing costs. Without data to inform the likelihood of an alert being raised, or the cost associated with responding to an alert, this potential impact has not been monetised. There would be some costs to the police in relation to the notification requirements to be imposed through the DAPO. This may include updating systems to record the information and responding to individuals who are providing notifications. If the time taken to manage notifications is significant this is likely to result in increasing costs to the police.

89. HMPPS: The Bill proposes to give courts an express power to impose EM as a condition of a DAPO. Given that HMPPS fund the current provision of EM tags, there could be a cost for HMPPS if the courts were to increasingly grant DAPOs with EM conditions.

90. We do not expect the Radio Frequency (RF) tags, currently provided to monitor compliance with a curfew, to be used in a domestic abuse context where the victim and perpetrator live together. For this reason, the express power is unlikely to substantially increase costs to HMPPS associated with curfew tagging. However, this would be dependent on the proportion of electronically monitored domestic abuse offenders who currently live with their victim. If tags are to be used in a DAPO for the primary purpose of preventing abuse, courts might instead prefer to electronically monitor the perpetrator's compliance with another requirement imposed on the order for example to monitor compliance with an exclusion zone when the perpetrator has moved out of the family home.

91. The anticipated cost to HMPPS would therefore be associated with a likely use of GPS tags when these are available at scale. A programme of work to deliver a new electronic monitoring service including location monitoring by GPS tags is expected to commence in 2019. To begin with, the service would replicate the existing suite of orders but work is also in train to identify those orders that may be in scope for further possible releases.

#### *iii. Criminalising breach of DAPOs*

92. Police: There may be some familiarisation costs for the police associated with the criminalisation of DAPO breaches. Given existing police knowledge of the DVPO process and the process for other protective orders where breach is already criminal (that is, non-molestation orders), and the lack of any studies to estimate time spent in processing an application for proceedings (once an instance of breach occurs) these impacts have not been monetised but are assumed to be minimal.

### Scope widening only

93. LAA: An element of the process changes outlined in measure (c) would be the widening of application routes and incorporating non-physical domestic abuse, where the DVPO only covered domestic violence. The DAPO would enable specified agencies to apply for a protective order on the

victim's behalf. It is yet to be decided which agencies could be eligible to apply, however it is likely that there would be some costs to the LAA of accrediting certain organisations, ensuring their eligibility to apply on a victim's behalf and therefore secure LAA funding. The DAPO would also allow victims of non-physical domestic abuse to seek a protective order, which would likely increase the number of legal aid applications from victims of domestic abuse.

94. The widening of application routes could impact on the LAA if the granting of additional protective orders is accepted as evidence that an applicant has been affected by domestic abuse and is, therefore eligible for a LAA DV funding certificate. This certificate guarantees legal aid funding for applicants in future proceedings, and could, therefore increase costs to the LAA. The magnitude of these costs is not known, as protective injunctions are one of several means to proving eligibility for guaranteed funding.
95. Cafcass and Cafcass Cymru: There could be additional resource costs for these practitioners associated with applications being made for DAPOs.

### **Benefits of Measure (c)**

#### *Monetised benefits*

Process change

96. It has not been possible to monetise the process change benefits of this measure.

Scope widening

97. It has not been possible to monetise the scope widening benefits of this measure.

#### *Non-monetised benefits*

Process change

98. Victims and Justice system: The introduction of DAPOs would facilitate a more consistent response to domestic abuse from the justice system by offering a consistent, effective and flexible order to deal with offences. This may result in earlier and more effective intervention by justice system agencies, which may prevent the escalation of abuse and reduce reoffending.
99. Victims (confidence in the justice system): See overall non-monetised benefits.
100. Victims (reduction in prevalence of domestic abuse): The power described above is aimed at changing offender behaviour to reduce the prevalence of domestic abuse. There is some evidence that domestic abuse perpetrator programmes in England and Wales have led to a reduction in violence. Following CARA perpetrator interventions, using the Cambridge Crime Harm Index, an evaluation<sup>61</sup> found that the severity of offences that perpetrators were arrested for after the intervention was 27 per cent lower than for those of perpetrators in the control group and the frequency of reoffending was 21 per cent lower in the treatment compared to the control group. An evaluation of two interventions delivered by the NPS (the Integrated Domestic Abuse Programme and the Community Domestic Violence Programme) indicated that both were effective in reducing domestic abuse and any reoffending in the two-year follow up period with small but significant effects<sup>62</sup>. Any reductions in reoffending could reduce emotional and physical costs to victims, their children and society.
101. Those living with, or close to, victims (specifically children witnessing domestic abuse): The 2017 Office for National Statistics (ONS) domestic abuse outcomes report<sup>63</sup> found that one in three (34 per cent) of those who witnessed domestic abuse as a child in their home were abused by a partner as

<sup>61</sup> <https://www.repository.cam.ac.uk/handle/1810/266887>

<sup>62</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/449008/outcome-evaluation-idap-cdvp.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449008/outcome-evaluation-idap-cdvp.pdf) - DA reoffending across both programmes was on average 10.9 percentage points lower than the control group.

<sup>63</sup> Office for National Statistics (2017) *People who were abused as children are more likely to be abused as an adult*. <http://visual.ons.gov.uk/people-who-were-abused-as-children-are-more-likely-to-be-abused-as-an-adult/>

an adult, and that this was much more likely than those who did not witness domestic abuse (11 per cent). Early intervention and programmes to change offender behaviour could potentially reduce the likelihood of children witnessing domestic abuse which may go on to reduce the likelihood of them subsequently being victims or perpetrators. This may reduce the emotional and physical costs to victims and society from domestic abuse.

102. Victims: It is possible that the criminalisation of breach could have a deterrent effect and reduce the incentive for the perpetrator to breach the order. However, without sufficient data or studies to date, there is little evidence to explore a breach deterrent effect.
103. Police: Possible benefits to the police may come from the reduced number of breach proceedings they bring forward upon criminalisation of breach. This potential resource saving for the police may offset the increased cost borne on the CPS, as described in paragraph 65.

Scope widening

104. Victims: The scope widening aspect of the measure could benefit victims by taking the onus off the victim to apply to the courts for an order, as specified agencies could do this on their behalf, thus reducing the time and pressure associated with legal proceedings. Although it should be noted that because the court is required to take the victim's views into account before making a DAPO, victims may still choose to give evidence (in writing or orally) in some cases. As the scope widening is estimated to lead to more orders being granted, this has the potential to support and protect more victims than the 'do nothing' option, thus representing a bigger benefit to victims.

**Net quantifiable impacts of Measure (c)**

105. The tables below summarise the net quantifiable impacts of the proposed protective orders measure for each agency, broken down by process change and scope widening impacts (and jurisdiction, where appropriate). The overall estimated impacts associated with the measure are then summarised.

**Table 2: Summary of annual estimated economic costs to HMCTS, by jurisdiction (£m, 2018/19 prices)**

Jurisdiction	Process change	Increase in scope	Total
Criminal	0.9	1.1 - 2.1	2.0 - 2.9
Family	0.0	0.4 - 0.8	0.4 - 0.8
<b>Total</b>	<b>0.9</b>	<b>1.5 - 2.9</b>	<b>2.4 - 3.8</b>

Optimism bias of 15 per cent included. Figures may not sum due to rounding.

**Table 3: Summary of annual estimated economic costs to the LAA, by type of representation (£m, 2018/19 prices)**

Type of representation	Process change	Increase in scope	Total
Civil	0.0	2.1 - 4.1	2.1 - 4.1
Criminal	0.8	0.7 - 1.3	1.5 - 2.1
<b>Total</b>	<b>0.8</b>	<b>2.8 - 5.4</b>	<b>3.5 - 6.2</b>

Optimism bias of 15 per cent included. Figures may not sum due to rounding.

**Table 4: Summary of annual estimated economic costs to HMPPS, by activity (£m, 2018/19 prices)**

HMPPS provision	Process change	Increase in scope	Total
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Electronic Monitoring		Non-monetised cost	0.0
Custodial sentences	0.9	1.2 - 2.2	2.1 - 3.1
Probation supervision on licence	0.5	0.3 - 0.7	0.9 - 1.3
Probation supervision in the community	2.5	1.9 - 3.4	4.4 - 5.9
<b>Total</b>	<b>4.0</b>	<b>3.4 - 6.4</b>	<b>7.4 - 10.3</b>

Optimism bias of 15 per cent included. Estimated probation impacts include NPS pre-assessments and probation supervision by both the NPS and CRCs. Figures may not sum due to rounding.

**Table 5: Summary of estimated annual costs associated with the protective orders measure, by justice system agency (£m, 2018/19 prices)**

Justice system agency	Estimated economic cost from process change	Estimated economic cost from increase in scope	Total
Police	0.1	1.4 - 2.7	1.5 – 2.7
CPS	0.4	0.3 - 0.6	0.7 - 1.0
HMCTS	1.0	1.5 - 2.9	2.5 - 3.9
LAA	0.8	2.8 - 5.4	3.5 - 6.2
HMPPS	4.0	3.4 - 6.4	7.4 - 10.3
Other	1.7	0.0 - 0.2	1.7 - 1.9
<b>Total</b>	<b>8.0</b>	<b>9.4 - 18.1</b>	<b>17.4 – 26.0</b>

Optimism Bias of 15 per cent included. HMPPS impacts include CRC payments. Figures may not sum due to rounding.

The estimated quantified net cost to society of this measure, assessed in isolation, is between £17.4 and £26.0 million per year, depending on the assumed increase in protective order applications. In isolation, amending the domestic abuse related protective orders framework, as outlined above, is estimated to have a 10-year NPC from 2018/19 of £116 million to £173 million (PV)<sup>64</sup>.

#### **(d) Extend extraterritorial jurisdiction (ETJ)**

106. The potential impacts of measure (d) are likely to materialise in two areas. One being an increase in the number of cases being prosecuted. The second likely impact is training and familiarisation costs for the extension of ETJ to relevant offences.

107. The one-off training and familiarisation cost would likely be incurred by the police, CPS and judiciary. We expect these to be minimal as the extension of ETJ would apply to offences with which they are already familiar in the domestic context. Therefore, agencies should have the relevant guidance in place which could be applied to these cases.

108. A list of 14 offences, over which the Government believes it is necessary to take (or extend existing<sup>65</sup>) ETJ has been used in this analysis. The relevant offences are: (1) putting people in fear of violence; (2) controlling or coercive behaviour in an intimate of family relationship; (3) stalking

<sup>64</sup> The estimated NPC is calculated using 2018/19 as the base year, with implementation expected in April 2020 (in financial year 2020/21). Accordingly, the NPC is calculated over 10 years and incorporates 8 years of estimated costs.

<sup>65</sup> Section 9 of the Offences Against the Person Act 1861 and section 4 of the Suppression of Terrorism Act 1978, respectively, provide ETJ in all cases where murder or manslaughter is committed abroad by a UK national and in most cases where those offences are committed abroad by a person who is habitually resident in the UK. In respect of the offences at (11) to (14) above, section 72 of the Sexual Offences Act 2003 provides ETJ over those offences when committed by a UK national, and in certain cases a UK resident, where the victim was aged under 18 at the time of the offence.

involving fear of violence or serious alarm or distress; (4) murder and manslaughter; (5) actual bodily harm; (6) grievous bodily harm, (7) grievous bodily harm with intent; (8) child destruction; (9) administering poison or noxious thing so as to endanger life or inflict grievous bodily harm; (10) administering poison or noxious thing with intent to injure, aggrieve or annoy another person; (11) rape, (12) assault by penetration; (13) sexual assault; and (14) causing a person to engage in sexual activity without consent.

109. Offences (1), (8), (9), and (10) have not been included in the analysis as they are not present in the data supplied by Prisoners Abroad<sup>66</sup>. This should not impact the estimates as their lack of presence in the data suggests that few people are proceeded against for these types of offences abroad.

## Costs of Measure (d)

### *Monetised costs*

110. Volumes are uncertain as cases involving ETJ are not recorded separately in Criminal Justice Statistics, and so it is unclear how many cases the UK currently deals with. For the purposes of this analysis, two data sets are used to estimate the volume of additional ETJ cases. One from the Foreign & Commonwealth Office's (FCO) "*Helping British Nationals Abroad*" publication<sup>67</sup> and a second supplied by the charity Prisoners Abroad (PA). Both have their limitations as set out in the 'Risks and Assumptions' section below.

111. According to the FCO's data, in 2015/16 there were approximately 4,500 non-drug related arrests/detentions of UK nationals where consular assistance was requested. To estimate the number of ETJ cases, several factors are applied to this number:

- a. Using PA's data, the proportion of offences, being sought under this extension of ETJ, as a proportion of all non-drug related cases abroad.
- b. The likely proportion involving nationals from England and Wales<sup>68</sup>.
- c. The proportion of arrests which lead to court proceedings<sup>69</sup>.

112. Approximately 200 additional cases per year are estimated where ETJ could be exercised. In practice, it is likely that only serious offences committed abroad by UK nationals or residents that cannot or should not be prosecuted where they occurred would be prosecuted in the UK, and so the actual volume is likely to be lower.

113. The number of cases within each type of offence is then multiplied by an estimated cost for that particular type of offence. Note that these costs are for an average domestic case, and do not incorporate additional costs that may arise due to the offence being committed overseas. For instance, cost associated with the extradition of the perpetrator or costs of police collaboration with local law enforcement agencies.

114. To estimate the impact on the CPS, a contest rate is applied to the estimated number of proceedings for each offence type. CPS modelling assumes that approximately 14 per cent of magistrates' courts and 19 per cent of Crown Court proceedings are contested. The CPS estimated costs based on their National Resource Model for each type of proceeding (based on unit costs for guilty plea and contested proceedings in the magistrates' courts and Crown Court).

115. The additional cases are estimated to cost a total of £6.8 million per year. The 10-year NPC of this measure is £45 million. The actual cost may be lower as only the most serious cases are likely to be

<sup>66</sup> <https://www.prisonersabroad.org.uk/>

<sup>67</sup> <https://www.gov.uk/government/statistical-data-sets/helping-british-nationals-abroad-2016>

<sup>68</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality>

<sup>69</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesbulletintables>

prosecuted in the UK, or higher if the average cost of these ETJ cases is greater than the average cost of domestic cases. The annual cost by agency is estimated<sup>70</sup> at:

- HMCTS: £0.7 million.
- CPS: £0.3 million.
- LAA: £1.5 million.
- HMPPS: £4.3 million, of which £4.0 million are prison costs<sup>71</sup> and £0.3 million are probation costs.

#### *Non-monetised costs*

116. Due to the lack of relevant data, costs associated with transporting evidence, victims, witnesses and defendants to the UK, and police/prosecutors gathering evidence overseas have not been estimated. It is not clear which jurisdiction or agency would bear these costs - in some instances some may be borne by the authority in which the offence occurred.
117. Exercising ETJ may mean there are increased extraditions compared to the current volume. This process would also incur additional costs although there is uncertainty around their magnitude and to whom the costs would fall.
118. Prosecuting ETJ cases can be more complex than the average domestic case of that offence, and thus may require justice system resource over and above that required for prosecution of a typical domestic case. The scale of any uplift is currently unclear and so has not been applied

### **Benefits of Measure (d)**

#### *Monetised benefits*

119. It has not been possible to monetise any benefits arising from this measure.

#### *Non-monetised benefits*

120. Ratifying the Istanbul Convention would enhance the UK's reputation as a world leader in tackling violence against women and domestic violence. This would demonstrate the Government's commitment to eliminating such violence.

### **Net quantifiable impacts of Measure (d)**

121. Extending ETJ over relevant offences, as outlined above, is estimated to have a 10-year NPC from 2018/19 of £45 million (PV)<sup>72</sup>.

## **(e) Domestic Violence Disclosure Scheme**

122. The potential impacts of measure (e) are likely to affect only the police as a result of increased use of the DVDS scheme.

### **Costs of Measure (e)**

#### *Monetised costs*

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<sup>70</sup> These are rounded numbers and so sums may not add to the total presented.

<sup>71</sup> It should be noted that prison costs do not account for any potential additional capital costs that might be associated any construction of new facilities.

<sup>72</sup> The estimated NPC is calculated using 2018/19 as the base year, with implementation expected in April 2020 (in financial year 2020/21). Accordingly, the NPC is calculated over 10 years and incorporates 8 years of estimated costs.

123. A small cost is expected as a result of additional demands on police time in responding to information requests and providing information where it is considered appropriate to do so.
124. Recent data on the use of the DVDS is published by the ONS<sup>73</sup>. Data on the cost per request were published for Wiltshire police force in 2012/13 following the pilot assessment of the policy<sup>74</sup>. These estimates cover the resource costs to the police of providing information relating to an individual where there is a concern that the individual may be abusive towards their partner.<sup>75</sup>
125. The cost estimates have been assumed to be representative of all forces and were uplifted by police pay increases to give 2018/19 estimates. The unit costs below are used in the IA:
- £1,330 for each disclosure from the 'right to ask'<sup>76</sup> (where the police disclose information via a request from a member of the public)
  - £893 for each disclosure from the 'right to know' (where a proactive decision is made to consider disclosing information in order to protect a potential victim)
126. ONS data shows that across all forces in England and Wales during the year to the end of June 2017 there were 5,445 and 2,438 applications under right to know and right to ask and there were 2,238 and 972 disclosures respectively. Consistent with the assumption made in the protective orders section, we assumed the police leads to an increase in volumes between 5 and 10 per cent.
127. Including optimism bias of 15 per cent, multiplying the change in use by the cost to police gives an additional annual cost between £0.2 and £0.54 million. The estimated present value cost (NPC) of this policy is £1.5 to £3.1 million (PV) over 10 years.

#### *Non-monetised costs*

128. This policy seeks to encourage the use of an existing scheme offered by all police forces in England and Wales, therefore there are unlikely to be any significant non-monetised costs. A small, one-off training and familiarisation cost could be incurred by the police if volumes increased considerably. This cost is expected to be negligible as the measure would apply to a scheme with which the police are already familiar.

### **Benefits of Measure (e)**

#### *Monetised benefits*

129. It has not been possible to monetise any benefits arising from this measure.

#### *Non-monetised benefits*

130. The DVDS helps to ensure potential victims are provided with appropriate information about the risk their partner or ex-partner may pose. The purpose of DVDS is, therefore, to increase public safety and afford victims of domestic abuse better protection by helping them make a more informed decision on whether to continue a relationship. Improving and increasing police application of the scheme, through placing DVDS on a statutory footing, would provide greater protection to potential victims of domestic abuse.

### **Net quantifiable impacts of Measure (e)**

131. The estimated present value cost (NPC) of this policy is £1.5 to £3.1 million (PV) over 10 years, and it is anticipated that this cost falls entirely to the police

<sup>73</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseinenglandandwalesappendixtables>

<sup>74</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260894/DVDS\\_assessment\\_report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260894/DVDS_assessment_report.pdf) - Page 16.

<sup>75</sup> The assumed resources regarding decision making forums have been refined from the Domestic Abuse Bill Consultation Impact Assessment.

<sup>76</sup> <http://www.gmp.police.uk/content/section.html?readform&s=903BB34BE34EDA3180257A71002DE9EE> – Explanation of 'right to ask' and 'right to know'

## **(f) Preventing cross examination in person in specified circumstances in family proceedings**

### **Costs of Measure (f)**

#### **Monetised Costs**

132. By enabling the court to appoint publicly-funded legal representatives in these proceedings, we estimate that the steady-state cost to the MoJ would be up to approximately £8 million per annum, if paid at legal aid rates. This is based on an estimate of potential volumes, using family court statistics and qualitative research on the likelihood of judges seeking to use court-appointed representation<sup>77</sup>. The unit cost is the current final hearing legal aid fee paid to legal representatives in the relevant family proceedings – these are used as a proxy to provide an estimated policy cost. To note, as details of implementation are to be finalised, these costs should be treated as indicative only.

#### **Non-Monetised Costs**

133. It is expected that the costs of reissuing guidance and informing stakeholders of its introduction would be negligible to the MoJ.
134. HMCTS will face administrative costs from this policy; communicating with the LAA and managing the process of confirming booking, cancelling if required and signing off the appearance of publically funded representatives.
135. The additional costs of funding legal representatives to prevent victims having to cross examine their alleged abusers have not be quantified.
136. In order to ensure that there are enough legal representatives available to carry out cross-examinations, the MoJ would need to establish a mechanism for sourcing and appointing legal representatives in an effective and timely manner. They would also need to determine who will lead on operating this mechanism. At present, it is therefore not possible to currently quantify the cost of setting up this mechanism as any additional costs for changes to departmental systems will depend on the final mechanism selected.

### **Benefits of Measure (f)**

#### **Monetised Benefits**

##### *Court Advocacy Service Providers*

137. This would see a new revenue stream created for providers of legal representation. The total financial benefit to providers is estimated to be up to approximately £8 million per year, which is equal to the estimated cost of the measure to the MoJ.

#### **Non-Monetised Benefits**

##### *Witnesses in family proceedings*

138. The main benefit of measure (f) is that the court would have (in specified circumstances) the option to appoint a qualified legal representative to cross-examine vulnerable witnesses. This is likely to be less distressing for witnesses, and should improve the quality of evidence. Modelling indicates that approximately 11,000 family proceedings per year could benefit from an appointed legal

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<sup>77</sup> This does not include the Family Division of the High Court

representative. Additionally, these provisions may lead to judges and legal advisors less frequently having to be involved in conducting cross examination themselves. See also the general non monetised benefits set out in paragraphs 164 to 171.

**Net quantifiable impacts of Measure (f)**

139. Prohibiting the cross-examination of victims, as outlined above, is estimated to have a 10-year NPC from 2018/19 of £50 million (PV)<sup>78</sup>.

**(g) Subject high risk domestic abuse offenders on licence to mandatory polygraph examinations**

**Costs of Measure (g)**

*Monetised Costs*

140. The pilot scheme will involve a treatment group of 300 high risk of harm on licence domestic abuse offenders, alongside a control group (who will not be polygraphed) of 300 high risk of harm on licence domestic abuse offenders.

141. The annual estimated costs associated with the set up and running of the pilot scheme are summarised in Table 6.

**Table 6: Total estimated monetised costs associated with pilot scheme (£'000s, 2018/19 prices)**

<b>Costs incurred by NPS (HMPPS)</b>	<b>Estimated annual economic cost for the pilot scheme</b>
Staff costs and recruitment	280
Training costs (including equipment)	90
Staff related costs	70
Other Costs	60
<b>Total</b>	<b>500</b>

Costs include 15 per cent optimism bias. Figures may not sum due to rounding.

142. The estimated quantified net cost to society of this measure is £0.5 million per year. The running of the three-year pilot is estimated to have a 10-year NPC from 2018/19 of £1.3 million (PV). The estimated NPC is calculated using 2018/19 as the base year, with implementation expected in April 2020 (in financial year 2020/21). Accordingly, the NPC is calculated over 10 years and incorporates three years of estimated costs. It should be noted that while the cost of an initial pilot have been monetised, the costs of a potential full roll-out of the scheme have not been monetised for the purposes of this IA.

*Non-monetised Costs*

143. It has not been possible to identify any non-monetised costs associated with the initial pilot scheme. Similarly, no costs of a potential full roll-out have been monetised.

**Benefits of Measure (g)**

*Monetised benefits*

144. It has not been possible to identify any monetised benefits associated with this measure.

<sup>78</sup> The estimated NPC is calculated using 2018/19 as the base year, with implementation expected in April 2020 (in financial year 2020/21). Accordingly, the NPC is calculated over 10 years and incorporates 8 years of estimated costs.

### *Non-monetised benefits*

145. Non-monetised benefits of this measure would accrue if polygraphing of on licence domestic abuse perpetrators generates additional licence monitoring information that is used to improve risk management of on licence offenders.
146. The pilot should also provide additional evidence of the use of polygraphs for these offenders.

### **(h) Automatic eligibility of special measures in criminal court**

147. Automatic eligibility for special measures removes the need for an adult domestic abuse victim to establish eligibility for special measures on grounds of fear and distress. It should be noted that eligibility will not always mean special measures are granted. Special measures are only granted if a judge believes the measures would improve the quality of evidence given.
148. Internal MoJ analysis has found that at present around 1 per cent of domestic abuse victims are already automatically eligible for special measures when attending court<sup>79</sup>. Accordingly, no new costs would be generated by measure (h) when applied to this cohort. In addition, measure (h) would not generate new costs in the cases of individuals who, in the absence of automatic eligibility, would have applied for and been considered eligible for special measures.
149. Measure (h) would only generate new costs in the cases of individuals who, in the absence of automatic eligibility, would not have applied and been considered eligible for special measures. These cases would result in special measures being awarded where they would not have been previously. This would increase the total provision of special measures, and therefore would generate new costs to HMCTS.
150. It has not been possible to estimate the size of this cohort and as such no monetised costs associated with measure (h) have been estimated.

### **Costs of Measure (h)**

#### *Monetised costs*

151. It has not been possible to monetise the costs associated with measure (h).

#### *Non-monetised costs*

##### Screening a witness from seeing the defendant

152. Costs to HMCTS associated with this measure are expected to be minimal.

##### Evidence given by live link

153. Costs to HMCTS associated with this measure are uncertain. At present most courts have the technological capacity to operate a video link due to the implementation of remote hearings for minor offences such as motoring or parking ticket offences but there may be costs of expanding its use. However, additional costs may fall on other entities such as the police (who may need to offer a video link from a police station) or rape support centres, where the victim does not wish to enter court.

##### Evidence given in private

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<sup>79</sup> Due to being victims of sexual offences, for which victims are automatically assumed to qualify as intimidated and as such are eligible for special measures.

154. Costs to HMCTS associated with this measure are expected to be minimal.

#### Removal of wigs and gowns

155. Costs to HMCTS associated with this measure are expected to be minimal.

#### Video recorded cross-examination and evidence

156. Costs to HMCTS associated with this measure are uncertain. Pre-recorded cross-examination may take place in a court room under the provisions of this bill, and so in theory could create additional costs for HMCTS.

157. Pre-recorded evidence is usually taken from the video recorded interview of the witness undertaken in accordance with Achieving Best Evidence guidance<sup>80</sup>. As such, this policy measure may impose additional costs on police forces.

158. Costs to the police with this measure are uncertain. Currently, for domestic abuse cases, police undertake a judgement based assessment when they decide whether or not to undertake a video recorded interview. If the automatic eligibility of special measures for domestic abuse victims increases, in turn leading to additional video recorded interviews being conducted, then there will be additional costs for the police.

#### **Benefits of measure (h)**

##### *Monetised benefits*

159. It has not been possible to monetise the benefits associated with measure (h).

##### *Non-monetised benefits*

160. The range of measures that domestic abuse victims would be made automatically eligible for would help to mitigate sources of stress faced when providing evidence. This should have benefits for victims. It may also help victims of domestic abuse to offer better evidence, which in turn could result in improved justice outcomes. See also the general non monetised benefits set out in paragraphs 164 to 171.

161. In addition, the use of video recorded cross examination in the context of sexual offenders has been associated with an increase in early guilty pleas. The reduction in average trial length that this engendered resulted in a net saving for HMCTS. It is not clear whether this impact would also be found in cases of domestic abuse. Furthermore, due to lack of required technology, any potential impact is likely to be prevented regardless.

#### **(i) Secure tenancy provision for domestic abuse victims**

162. This measure is within this proposed Bill. The full details of the measure have previously been published in the Department for Communities and Local Governments 'Secure Tenancies (Victims of Domestic Abuse) Bill 2017-19: Note of impacts'.<sup>81</sup>

#### **Measures (a) – (i): Overall non-monetised benefits**

163. The critical aim of the set of measures presented in this IA is to reduce the prevalence of domestic abuse, and therefore the harm caused to society.

<sup>80</sup> [https://www.cps.gov.uk/sites/default/files/documents/legal\\_guidance/best\\_evidence\\_in\\_criminal\\_proceedings.pdf](https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/best_evidence_in_criminal_proceedings.pdf)

<sup>81</sup> <https://services.parliament.uk/Bills/2017-19/securetenanciesvictimsdomesticabuse/documents.html>

164. It is also possible that the set of measures will increase public trust in the justice system.

165. However, without available evidence on the impacts of these interventions (for instance impact evaluations on the effects of particular programmes or orders), it has not been possible to accurately monetise benefits associated with the above measures.

166. However, the following section of this IA will outline:

- a) Evidence relating to the potential harm and costs of domestic abuse.
- b) How the proposed measures may address these issues.
- c) An example of the estimated reduction in domestic abuse victims required to offset the cost of the measures.

#### Evidence relating to the potential harm and cost of domestic abuse

167. The following evidence may help to demonstrate the potential scale of the benefits if the policy measures are successful in reducing the harm associated with domestic abuse:

- New Home Office research, *The Economic and Social Costs of Domestic Abuse* (Oliver et al. 2019)<sup>82</sup> estimated domestic abuse to have cost £66 billion in England and Wales for the year ending March 2017<sup>83</sup>. The main element of this cost is the physical and emotional harms borne by the victims themselves following their often prolonged and repeated period of abuse (£47 billion). Costs for each victim of domestic abuse is estimated to be approximately £34,000.
- The second highest cost estimated within this new research is the cost of lost output. As a result of the harm they have suffered, many may take time off work and be less productive following their return. The cost of this was estimated at £14 billion for domestic abuse victims.
- When abuse escalates, victims are more likely to require support from public services. Health and support services are particularly likely to experience demand for their services from victims. SafeLives report that between 10 per cent and 25 per cent of domestic abuse victims went to A&E in the year before they received effective help. Within the *Economic and Social Costs of Domestic Abuse* (Oliver et al., 2019) the cost to health services for victims of domestic abuse was estimated at £2.3 billion. Nearly 60 per cent of these costs are in relation to the emotional harms suffered highlighting the wider psychological and emotional costs above physical violence alone.
- There is also a body of literature which suggests children of victims of domestic abuse suffer from the life-long impact of the abuse leading them to be more likely to suffer from or perpetrate abuse in the future. Recent analysis of the Crime Survey for England and Wales showed that those who had witnessed domestic violence or abuse as a child (before aged 16) were more likely (than those who had not) to experience domestic abuse in the previous year as an adult (21 vs 5 per cent) and to experience sexual assault in the last year as an adult (5 per cent vs 2 per cent) (ONS, 2017)<sup>84</sup>.

#### Mechanism through which the proposed measures are assumed to reduce harm

168. The rationale underpinning the proposed options is to increase awareness and earlier reporting of domestic abuse, and provide the justice system with the tools to better deal with these cases, thereby preventing some of the costs to the victim and society. The non-monetised benefit sections above outline how each measure aims to reduce the prevalence and harm associated with domestic abuse.

#### Estimated reduction in domestic abuse flagged crime required to offset the cost of the measures

169. Despite having insufficient evidence to monetise the potential benefits, it is known that in the Crime Survey for England and Wales for the year ending March 2017, an estimated two million adults aged

<sup>82</sup> Oliver, R., Alexander, B., Roe, S. and Wlasny, M. (2019) *Economic and Social Cost of Domestic Abuse*. London: Home Office

<sup>83</sup> This is likely to underestimate the complete costs of domestic abuse to England and Wales as the associated costs of children present in domestic abuse households has not been included.

<sup>84</sup> Office for National Statistics (2017) *People who were abused as children are more likely to be abused as an adult*. <http://visual.ons.gov.uk/people-who-were-abused-as-children-are-more-likely-to-be-abused-as-an-adult/>

16 to 59 years experienced domestic abuse in the previous year<sup>85</sup>. Given the estimated costs of domestic abuse were approximately £66 billion for victims of domestic abuse in the year ending March 2017 (Oliver *et al.*, 2019) it would only take a very modest annual reduction in domestic abuse related crime for the estimated £34 million to £43 million annual cost of the policy measures to be offset by the potential benefits.

170. To demonstrate this, the physical and emotional unit costs for harms that domestic abuse victims suffer have been used from the *Economic and Social Costs of Domestic Abuse*. The unit cost for physical and emotional harm is estimated at £24,230. When the total costs included within this IA (£34 million to £43 million) are then divided by this unit cost, it is estimated that the total number of domestic abuse victims would need to be reduced by approximately 1,500 victims annually for the costs of these policies to be offset by the benefits from domestic abuse prevention to the victim. Using the number of domestic abuse victims, estimated by the ONS,<sup>86</sup> this represents a reduction in domestic abuse by approximately 0.1 per cent per year. By their nature, these benefits do not imply that the measures would be financially cost-neutral for the departments.

### **Summary and preferred option**

171. The total quantified costs of Option 2 (excluding measure (i)) are estimated to be between £34 and £43 million per year in a steady state. The estimated economic benefit of the policy is not monetised, as per the explanation above.

172. The analysis above does, however, show that only a very minor reduction (0.1% per year) in the prevalence of domestic abuse would be required for the benefits of Option 2 to outweigh the costs.

**Table 7: Summary of estimated annual costs by measure and justice system agency (£m, 2018/19 prices)**

Agency	Domestic Abuse Bill measure								Total
	(a) Statutory DA definition	(b) Domestic abuse commissioner	(c) Protective orders	(d) Extend ETJ	(e) DVDS	(f) Cross examination	(g) Polygraph	(i) Special measures	
HO/Police	-	1.1	1.5 – 2.7	-	0.2 - 0.5	-	-	-	2.8 to 4.3
HMCTS	-	-	2.5 – 3.9	0.7	-	-	-	-	3.2 to 4.6
CPS	-	-	0.7 – 1.0	0.3	-	-	-	-	1.0 to 1.3
LAA	-	-	3.5 – 6.2	1.5	-	8	-	-	13 to 15.7
HMPPS	-	-	7.4 – 10.3	4.3	-	-	0.5	-	11.9 to 15.3
Other	-	-	1.7 – 1.9	-	-	-	-	-	1.7 to 1.9
<b>Total</b>	<b>0</b>	<b>1.1</b>	<b>17.3 – 25.9</b>	<b>6.8</b>	<b>0.2 - 0.5</b>	<b>8</b>	<b>0.5</b>		<b>33.8 to 43.1</b>

HMPPS estimates include CRC payments. 15 per cent Optimism Bias applied. Excludes impacts of measure (i). Figures may not sum due to rounding.

## **F. Risk and Sensitivity analysis**

<sup>85</sup> Source:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2017>

<sup>86</sup> 1,956,000 domestic abuse victims within 2016/17 -

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2017>

## **Risks and assumptions**

173. The estimated cost and benefit impacts presented in this IA are based on a range of assumptions, some of which are uncertain. Consequently, each of the impacts estimated in this IA are subject to a degree of risk.
174. The following tables outlines those assumptions that, under current modelling, are assumed to drive impact to justice system partners; they are not intended to provide an exhaustive list of all modelling assumptions but to provide the reader with an overview of the most important assumptions, the risks surrounding these and a description of the possible impacts if this risk materialises.

Overarching Risks (including definition)	
Assumption	Risk and Impact
Data availability	Some of the measures analysed in this IA rely heavily on assumptions made in the absence of domestic abuse related data. A domestic abuse flag is not applied consistently throughout management information systems in the justice system, meaning it is difficult to get a thorough and complete understanding of the domestic abuse landscape from arrest through to offender management. In the absence of this data, assumptions have been made where required to inform some of the modelling work.
Optimism bias	A 15 per cent optimism bias has been applied to all quantified costs.
Definition – scope widening	Proposed changes to the definition of domestic abuse will not bring any new offences into scope but it is unknown to what extent the change in definition could alter the scope of behaviour that could be prosecuted under existing offences (notably stalking, harassment and controlling or coercive behaviour offences). If, for instance, the widening of the definition leads to incidents of economic abuse being included in prosecutions, justice system costs could increase.

Measure (b) – create the role of Domestic Abuse Commissioner	
Assumption	Risk and Impact
Resource requirement	If the resource requirement for the Domestic Abuse Commissioner is greater than assumed, for example an office consisting of more than the assumed 15 staff or at higher grades, then the estimated cost of this measure could be higher than presented in this IA.

Measure (c) – Protective Orders	
Assumption	Risk and Impact
Policy Implementation	The estimates provided in this IA rely on the new domestic abuse protective order framework being used in response to all domestic abuse cases for which this intervention has been considered appropriate. However, if practitioners such as the police continue to use the existing framework then the impacts could differ to those presented in this IA.
Increased demand to the justice system	It is possible that the increased demand to the justice system, in terms of more applications for protective orders, and/or criminal or civil proceedings flowing from breaches of the order, could be greater than anticipated in the modelling. If there is an annual increase in applications beyond the assumed 5-10 per cent range, the impact estimates presented in this IA could be an underestimate.

Lack of evidence on current use of perpetrator programmes and EM	The lack of information on the volume of perpetrator programmes attached to domestic abuse related protective orders and application of EM as a condition pose a risk that the analysis may be an under or over estimate, as it has been difficult to establish a baseline, and therefore understand aspects of the ‘do nothing’ approach. Without properly understanding the baseline usage, or the behaviour change anticipated as a result of the measure, the modelling has assumed a zero-usage baseline, and therefore the percentages shown in the assumptions relating to take up can be interpreted as percentage point increases. More detail on assumptions for each of these is provided below.
Proportion of existing protective orders that are assumed to be related to domestic abuse (and mapping from ‘current’ to ‘proposed’ framework)	<p>Modelling has assumed approximately 4,400 DAPNs granted (replacing the previous DVPN).</p> <p>Modelling assumes 32,300 DAPOs annually granted in a civil context (based on the 2016 volumes of DVPOs, non-molestation orders, occupation orders and on the 2015 volume of restraining orders granted on acquittal).</p> <p>Modelling assumes 20,700 DAPOs annually granted in the criminal court on conviction of an offence (based on the 2015 volume of restraining orders granted on conviction). However, DAPOs may also be made on acquittal.</p> <p>Proportion of these orders that are domestic abuse specific – volumes above are based on the following:</p> <ul style="list-style-type: none"> <li>• 100 per cent of DVPOs are domestic abuse specific</li> <li>• 95 per cent of non-molestation and occupation orders are domestic abuse specific</li> <li>• 86 per cent of restraining orders are domestic abuse specific</li> </ul>
Perpetrator programmes as an order condition	Modelling assumes 30 per cent of offenders would have a positive requirement attached to their domestic abuse protective order, with 100 per cent of these being perpetrator programmes. If the proportion of perpetrators with a positive requirement attached is higher (lower) than assumed the cost could be higher (lower) than estimated in this IA.
Perpetrator programme costs	Modelling assumes a cost of perpetrator programmes based on the costs of the CARA programme. If higher cost perpetrator programmes are provided there will be additional costs.
EM costs not modelled	Modelling for the estimated number of EM requirements as order conditions, along with their associated costs, has not been produced. This will likely mean that costs associated with additional protection order conditions have been understated as the estimate of total EM costs is not included. Some DAPOs will indeed have EM conditions attached and as such carry cost implications for HMCTS and further work will be undertaken to model these costs.
DAPO breach rate	Assumed breach rates for the new DAPOs are based on the historic breach rates for existing protective orders. If the breach rate is higher (lower) than this the cost could be higher (lower) than estimated in this IA. This impact is driven by the measure to criminalise breach of DAPOs.
Police breach costs	Modelling has estimated the police actions following a breach based on those that were undertaken within the DVPO evaluation. These are actions for a civil contempt of court and do not necessarily reflect the actions needed for a criminal breach of protection orders. The costs included may under or over estimate the associated breach police costs.

Proportion of DAPO breaches resulting in criminal proceedings	It is conservatively assumed that 100 per cent of the expected 1,400 DAPO breaches newly eligible for criminal proceedings will result in criminal proceedings. DAPO applicants may opt instead to bring breach proceedings under a contempt of court (for instance, to prevent loss of financial support from an abusive partner resulting from lost employment due to a criminal conviction). Therefore, the proportion of expected DAPO breaches resulting in criminal proceedings may be lower than 100 per cent. If this is the case, costs associated with breach criminalisation are likely to be lower than those modelled for HMCTS, CPS, LAA and HMPPS.
Application widening impacts	We have assumed that the 5 per cent to 10 per cent uplift in applications is largely attributable to widened application routes and wider types of victims for a DAPO. It is reasonable to suspect that organisations newly enabled to apply for a DAPO would mainly do so in the civil courts. As such, it is possible that a smaller share of the additional 5 per cent to 10 per cent would be made in criminal courts. If this is the case, additional applications would not be apportioned between the civil and criminal courts according to their contribution to the total baseline volume, and instead be mainly weighted towards civil courts. This would then result in lower costs to the justice system. Further work will be undertaken to review this assumption.

Measure (d) – Extend extraterritorial jurisdiction	
Assumptions	Risks and Impacts
Data sources	<p><i>Both</i>: The quality assurance process that the below datasets have been through is unknown. Links to the data sources are provided in footnotes 76 and 77.</p> <p><i>British Behaviour Abroad</i>: Does not present offence-specific data (although likely has greater coverage than the Prisoners Abroad data). It does not distinguish between offenders from different parts of the UK.</p> <p><i>Prisoners Abroad</i>: Relies on self-reporting so is unlikely to be a comprehensive reflection of the extent of offending by British nationals. It does not distinguish between different parts of the UK.</p>
Difference in costs of overseas investigations relative to domestically committed offences	The costs of overseas investigation, co-operation with overseas authorities and possible extradition are very uncertain and may well be higher than costs of prosecuting a domestic offence. As such, costs associated with the extension of ETJ may be higher than those estimated. Similarly, it is assumed that attrition from arrest to proceeding for cases identified abroad would be similar to that for domestic cases. If it is in fact different, this could also impact on total cost.
Volume estimate	The volume of cases over which ETJ would be exercised is highly uncertain (as explained in the appraisal section). There is insufficient data on the extent of offending in foreign jurisdictions.
Volume estimate Data coverage	<p>There are circumstances where cases could be reported in the UK rather than in a foreign jurisdiction (for example, by a victim's family after returning from a holiday). Again, we do not have any data on the number of cases where existing ETJ provision has been exercised.</p> <p>Prisoners Abroad and FCO data only cover British nationals detained overseas (with some exceptions). As ETJ would apply to both residents and nationals the data proportions and volume estimates could be different to what is estimated.</p>

Measure (e) – Domestic Violence Disclosure Scheme	
Assumptions	Risks and Impacts

Data sources	<i>Unit cost of police time</i> – This is based on data reported by one force (Wiltshire) in 2012/13 so is unlikely to be representative of all 43 forces in 2018/19. Although the cost of police time has been adjusted to the 2015/16 level the time taken by police may have fallen since the introduction as forces become more used to the scheme.
Volume estimate	The increase in volumes is assumed to be between 5 to 10 per cent, but a larger increase could lead to greater costs to police and greater benefits to victims.

Measure (f) – Prohibiting cross-examination of victims by domestic abuse perpetrators	
Assumptions	Risks and Impacts
Data sources	Our analysis takes data on the volume of family proceedings which are categorised as either a domestic violence family law matter or a private law matter where harm is alleged, and applies a series of evidenced assumptions to determine the likely volume of cases where a publicly-funded legal representative may be appointed to cross-examine a vulnerable witness. However, given this provision applies more widely than DA victims, this may therefore understate impacts. The volume is multiplied by legal aid final hearing fees currently paid to legal representatives in the relevant family proceedings as a proxy, to estimate policy cost. The future fees are yet to be determined.
Volumes of domestic violence matters	It is assumed that the volumes of domestic violence family law matters and private law matters with a domestic violence component would remain broadly constant. However, they have increased in recent years, and it is possible that this may continue.
Proportion of unrepresented respondents	It is assumed that the proportion of unrepresented respondents in private law matters is representative and this proportion will remain constant.
Ex-parte handling	It is assumed that 50 per cent of domestic violence family law matters are handled ex-parte. This is consistent with the proportion of non-molestation and occupation orders dealt with ex-parte. We assume the remaining 50 per cent not dealt with ex-parte is the proportion of cases that may need an appointed legal representative.
Admin costs	Admin costs for LAA and HMCTS will be dependent on the appointment process and payment mechanism
Cost per case	The cost per case is assumed to be equivalent to legal aid paid in the family advocacy scheme and domestic abuse hearings. As future fees are yet to be determined, we use legal aid fees paid for final hearings as an indicative figure.
Case volume uncertainty	The principal uncertainty arises from the estimated volume of cases in which a publicly-funded legal representative would be appointed in family proceedings. The qualitative evidence that has informed the assumptions (21 judicial interviews) was based on the views and experiences of the court without this provision. As this is a new power, it is not certain how often the court will appoint a legal representative, and how behaviour may change. Further there is uncertainty as to the extent to which this will be applied to other vulnerable groups. To show the sensitivity, if judges in 25 per cent of cases choose to appoint a publicly-funded legal representative (rather than 50 per cent) the expected cost would be around £3.3m, whereas for 75 per cent it would be around £10m.
Legal aid fee uncertainty	Uncertainty over how and when legal representatives would be paid means that it is difficult to assess when the full cost of the policy to the MoJ would be realised. A legal aid fee is used as a proxy in these calculations but it may not be the fee that would be used in practice.

## G. Implementation

175. The draft bill provides for the substantive provisions to be brought into force by Commencement Regulations made by the Secretary of State (that is, the Home Secretary, Secretary of State for

Justice or Secretary of State for Housing, Communities and Local Government, as the case may be). Provisions are also made for the measures relating to domestic abuse prevention notices/orders, special measures and polygraph testing to be piloted before being rolled out across England and Wales. Further announcements about the timing of implementation will be made in due course following Royal assent.

## **H. Evaluation**

176. The Government will review and monitor measures following implementation. In the normal way the Act will be subject to post-legislative scrutiny five years after Royal assent.

## **I. Wider Impacts**

### **Equality considerations**

177. An equality statement will be published separately to this Bill.

### **Family impact considerations**

178. It is hoped that the overall impact of the measures on families will be to promote safe, non-abusive relationships between family members. This could be achieved by increasing disincentives to engage in abusive behaviour, through early intervention (through greater DVDS use), by helping perpetrators to reform their behaviour (for instance, by attending a programme as a condition of a DAPO), and by affording greater protections to DA victims (for instance, by preventing abusive partners to cross-examine their victims).