# VICTIMS AND PRISONERS BILL

# EXPLANATORY NOTES

## What these notes do

These Explanatory Notes relate to the Victims and Prisoners Bill as brought from the House of Commons on 6 December 2023 (HL Bill 31). The Bill completed Committee Stage in the House of Commons on 11 July 2023. The Bill has been carried over from the 2022-2023 Parliamentary session.

- These Explanatory Notes have been prepared by the Ministry of Justice in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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# Overview of the Bill

1 The Victims and Prisoners Bill contains measures in relation to:

- Victims of criminal conduct
- Victims of major incidents
- Reforms to the parole system
- Restrictions on marriage for prisoners who are imprisoned under whole life orders.

2 Part 1 of the Bill brings forward measures to improve the end-to-end support for victims of crime so that they get the support needed to cope and build resilience to move forward with daily life and feel able to engage and remain engaged in the criminal justice system. The measures will send a clear signal about what victims can and should expect from the criminal justice system, strengthen transparency and oversight of criminal justice agencies and improve how victim support services deliver for victims.

3 Part 2 of the Bill also establishes advocates to support victims and the bereaved following a major incident. This includes a standing advocate and the ability to appoint additional advocates when a major incident occurs to provide victims with support and guidance following a significant major incident where large scale loss of life or harm has occurred.

4 Part 3 of the Bill implements the reforms set out in the Government's Root and Branch Review of the Parole System[1] to strengthen the parole system by creating a top-tier cohort of offenders with a Ministerial oversight function to be able to review the release of the most dangerous offenders and refer to a superior court where this is required for public protection. The Bill also makes changes to the function of the Parole Board, setting out clearly the functions and responsibilities of the Chair of the Board and creates a power for the Secretary of State to remove the Chair if they believe this is necessary for the maintenance of public confidence in the Board.

5 Part 3 of the Bill prohibits prisoners who are imprisoned under whole life orders from being able to marry or forming a civil partnership whilst in prison.

6 This Bill was originally introduced in the House of Commons in 2022-2023 session on 29 March 2023. Second Reading took place on 15 May 2023 and Commons Committee Stage concluded on 11 July 2023. A carryover motion was agreed by the House of Commons on 15 May 2023. The Bill was carried over to the next Parliamentary session and reintroduced on 8 November 2023.

# Policy background

## Victims of criminal conduct measures

7 In 2019/20, it was estimated that 6.6% of 10-15-year olds and around one in five adults (19.3%) in England and Wales were victims of crime.[2] In December 2021, the Government launched a public consultation "Delivering justice for victims: A consultation on improving victims' experiences of

[1] https://www.gov.uk/government/publications/root-and-branch-review-of-the-parole-system

[2] For the April 2019 to March 2020 period. Crime in England and Wales: Appendix tables, summary table 2 and table A11 – Office for National Statistics, https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesappendixtables

the justice system"[3] to inform development of this law. The Government consulted broadly on how to improve what victims can expect from the criminal justice system and how to improve aspects of victim support services. Its aim was to better understand the experiences of victims and harness expertise from frontline practitioners and experts, to ensure that the Bill and accompanying measures improve support for victims throughout the criminal justice system. The consultation ran for eight weeks and received over 600 responses.

8 The Government's response to the consultation set out the legislative and non-legislative measures planned to improve victims' experiences of the justice system. The Bill will facilitate a more consolidated framework to better support victims through the following legislative measures:

- placing the overarching principles of the Victims' Code in primary legislation
- placing a duty on relevant bodies to promote awareness of the Victims' Code
- enhancing oversight of delivery of the Victims' Code through better data collection and an enhanced role of Police and Crime Commissioners at the local level
- introducing a duty on Police and Crime Commissioners, local authorities and Integrated Care Boards in England to collaborate locally, to facilitate more holistic and better coordinated victim support services
- improving consistency of support provided by Independent Sexual Violence Advisors and Independent Domestic Violence Advisors by requiring the Secretary of State to issue statutory guidance about these roles, and placing a requirement on those advisors as well as other persons who work with victims, or any aspect of the criminal justice system - with the exception of the Judiciary - to have regard to that guidance.
- updating the role of the Victims' Commissioner, including a requirement for departments and agencies with a responsibility to meet the requirements under the Victims' Code to, if named, respond to recommendations made by the Victims' Commissioner in their published reports.
- bolstering national oversight through a power to direct joint thematic inspections on victims' experiences and a requirement for the criminal justice inspectorates to consult the Victims' Commissioner.
- removing the need to raise a complaint via an MP before it can be escalated to the Parliamentary and Health Service Ombudsman, where the complaint relates to the complainant's experiences as a victim of crime.
- Creates provisions to ensure that the police and other specified law enforcement organisations request information from third parties in respect of victims of criminal conduct only when it is necessary and proportionate and in pursuit of a reasonable line of inquiry.

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[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1078072/delivering-justice-for-victims.pdf

7 The draft Victims Bill was published for pre-legislative scrutiny on 25 May 2022. The Government is grateful for the Justice Select Committee's consideration of the Bill[4] and has responded separately to the recommendations within their report[5].

## Meaning of a victim

8 Part 1 of the Bill relates to victims of crime, in contrast to Part 2 which relates to victims of major incidents. The Bill uses the term 'victim' although the Government recognises that the term 'complainant' may be used to describe a person who has made a criminal allegation to the police, and that some people prefer to identify themselves as a 'survivor'.

9 The Domestic Violence, Crime and Victims Act 2004 put in place certain measures for victims of crime. It made clear that a person could still be a victim of crime for the purposes of that Act regardless of whether anyone had been charged with or convicted of an offence.

10 The Domestic Violence, Crime and Victims Act 2004 also required the Secretary of State to issue a code of practice as to the services to be provided to victims of criminal conduct (the Victims' Code). More detail was set out in the Victims' Code itself about who came under this definition for the purposes of the Code. The Code's definition recognised that a person can suffer harm that was directly caused by a crime without being the direct subject of that crime, such as families bereaved by homicide. It also made clear that a person could be considered a victim of crime, regardless of whether they had reported it to the police, in order to access support services.

11 The approach that has been taken in relation to the meaning of a victim of crime in the Bill reflects that wider definition.

## The Victims' Code

12 Under section 32 of the Domestic Violence, Crime and Victims Act 2004 (the 2004 Act), the Secretary of State must issue a Code of Practice for services to be provided to victims of criminal conduct by those persons working in the criminal justice system or having some function related to it. The first Code of Practice for Victims of Crime (Victims' Code) came into effect in 2006. It has since been updated several times. The latest Victims' Code, which was laid before Parliament in November 2020 and came into force on 1 April 2021, sets out 12 overarching services which eligible victims are entitled to receive, and these are referred to as 'rights' in the Code.

13 The Government consulted on proposals to place the key principles of the Code in primary legislation and the detail of the Code in regulations and guidance, with the intent of raising the profile of the Victims' Code.

14 Respondents to the consultation were in favour of these proposals. This Bill will repeal the Code provisions of the 2004 Act, restate them with amendments and set out in primary legislation the key principles that must be reflected in the services provided for by the Victims' Code.

15 The Bill will also create a power for the Secretary of State to make regulations which make further provision about the Victims' Code, including about matters that the Code must include. The intention is that the regulations will set out a framework for the new Code by reference to the twelve key entitlements from the 2020 Code, to ensure victims continue to receive this level of service from criminal justice agencies, and to enhance Parliamentary oversight of the Code. This

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[4] https://committees.parliament.uk/publications/28831/documents/174248/default/

[5] https://committees.parliament.uk/publications/33610/documents/183133/default/

approach retains flexibility to review and amend the framework of the Code, to ensure that it stays relevant for victims. It also provides flexibility for further matters to be provided for in the regulations, if and when the Secretary of State deems it necessary.

16 The new Victims' Code issued under the Bill will be a statutory code which will set out in detail the services that should be provided to victims of crime. The Code will need to reflect the key principles as set out in the Bill and accord with any provision set out in the regulations. The Code will explain who is entitled to access services and provide information about how they will be delivered. The current legislation requires a public consultation before any changes can be made to the Victims' Code and the Bill will retain this requirement as well as allowing for amendments that the Secretary of State deems to be minor changes, such as clarifications or corrections, to be made to the new Victims' Code without consultation.

## Code awareness and compliance: specified bodies

17 The Bill will place a duty on specified bodies to promote awareness of the Victims' Code, and to jointly keep their compliance with the Victims' Code under review.

18 These duties will apply to the following bodies, because they are the most likely to be in contact with the victim throughout their journey and are required to deliver specific Code entitlements:

"The criminal justice bodies:"

a. The Chief Officer of police for the police area in question

b. The Crown Prosecution Service

c. His Majesty's Courts and Tribunals Service

d. His Majesty's Prison and Probation Service and its executive agencies (His Majesty's Prison Service, the Probation Service and the Youth Custody Service);

e. Youth Offending Teams; and

19 These duties will also apply to the following non-territorial police forces:

- The Chief Constable of the British Transport Police and
- The Chief Constable of the Ministry of Defence Police

## Raising awareness of the Victims' Code

20 The specified bodies already have processes in place to inform victims about the Victims' Code. However, during the pre-legislative scrutiny process, stakeholders highlighted that more should be done to make victims aware of the Victims' Code.

21 The Bill will therefore place a duty on the specified bodies as outlined above, to take reasonable steps to promote awareness of the Victims' Code among users of the services that they provide and amongst other members of the public.

22 Supporting guidance will underpin the duty and will provide recommendations on how bodies may fulfil this duty. This allows for flexibility for the bodies to choose how they meet this duty, recognising the expertise that these bodies will have in determining the most appropriate method and timing of bringing the Code to the attention of victims and other service users.

23 The effectiveness and implementation of the duty to promote awareness of the Code amongst service users will be overseen by the Code compliance monitoring framework. This will enable appropriate data collection, and local and national governance of compliance with the duty.

## Monitoring compliance with the Victims' Code

24 The Bill places an overarching duty on the specified bodies to jointly keep their compliance with the Victims' Code under review. It also places a duty on Police and Crime Commissioners (PCCs) to keep under review how the criminal justice bodies are complying with the Victims' Code in their local police area. This duty will help ensure there is effective and consistent oversight, providing a clear picture of compliance with the Code for criminal justice bodies to drive up standards of the service for victims.

25 As part of this overarching duty, this Bill places a duty on each of the criminal justice bodies to collect prescribed information relating to how they exercise their functions in the police area in accordance with the Victims' Code.

26 The Bill also places a duty on the specified bodies to share information with one another and with Police and Crime Commissioners, in order to support them in their duties to jointly keep compliance with the Victims' Code under review. It also requires the criminal justice bodies and PCCs to jointly review the information that has been shared.

27 Police and Crime Commissioners will also be required to share specified information collected pertaining to Code compliance with the Ministry of Justice, together with reports on specified matters in connection with the review of the information, so that the department can build a coherent picture of how the criminal justice system is delivering for victims and witnesses.

28 The non-territorial police forces do not operate by police area and therefore do not fit within the same governance structure as local police forces. The Bill therefore provides a separate process for oversight of compliance with the Victims' Code for the Ministry of Defence Police and the British Transport Police. As with the duty on territorial forces, the Chief Constable of the Ministry of Defence Police and the Chief Constable of the British Transport Police are required to keep under review their compliance with the Code and to collect and share prescribed information relating to their compliance with the Code and will be required to review this information.

29 The mechanism for them to share and review the information differs from territorial forces by involving a separate body in the absence of a PCC (but under the same requirements), namely, the Secretary of State for the Ministry of Defence Police (which in practice will be the Secretary of State for Defence) and the British Transport Police Authority for British Transport Police. The British Transport Police Authority are required to jointly review the information shared with them by The Chief Constable of the British Transport Police and to share information, together with reports in connection with the review of the information, with the Ministry of Justice. The Chief Constable of the Ministry of Defence Police is required to review and share information with the Secretary of State who is required to prepare reports on matters in connection with the review of information. A memorandum of understanding will be used to set out arrangements relating to the sharing of information, where it is anticipated that The Chief Constable of the Ministry of Defence Police will review and share the information with the Secretary of State for Defence who will then share information and reports with the Secretary of State for Justice.

30 This will ensure that all police forces (those that operate at a local and national level) have parity of expectations in the service delivered to victims.

31 The Bill contains powers for the Secretary of State to make regulations in respect of the duties placed on the specified bodies, which may in particular prescribe the different information to be collected or shared by them (and the form in which it should be collected and shared or require it to be provided in a form specified in a notice), for the overall purposes of keeping Code compliance under review. It is intended that the information to be collected and shared will include: (i) compliance data relating to the delivery of the different services under the Victims'

Code; and (ii) data relating to the experiences of users of those services, particularly victims' feedback regarding services received.

32 To ensure transparency at every level, the Secretary of State will be required to publish information which enables the public to assess the compliance with the Victims' Code. PCCs will be required to take reasonable steps to make members of the public in their area aware of how to access this information.

33 The Bill also contains a requirement for the Secretary of State to issue guidance in respect of the discharge of the above duties and any person subject to the duties must have regard to the guidance.

## Victim support services

34 Victims are likely to experience a range of impacts following a crime and may require advice, recovery and support services, which could be medical, therapeutic, practical and/or emotional. The current Victims' Code sets out the entitlement for victims to be referred to support services and the intention is that this will be reflected in the new Victims' Code.

35 The Government consulted on whether more formalised collaboration structures could help to improve service provision for victims of certain crimes (domestic abuse, criminal conduct of a sexual nature and serious violence), because currently there is no framework or structure that brings together the range of public sector bodies who provide support services to these victims outside of safe accommodation.

36 In response to the consultation feedback, this Bill will place a new duty on local authorities, Police and Crime Commissioners and Integrated Care Boards to collaborate when commissioning support services for victims of domestic abuse, criminal conduct of a sexual nature, and serious violence (excluding services for victims living in safe accommodation, which are covered by a separate legislative framework in Part 4 of the Domestic Abuse Act 2021), to facilitate more holistic and coordinated support services.

37 The Bill would require local authorities, Police and Crime Commissioners and Integrated Care Boards to jointly prepare, publish and implement a joint local strategy to set out the aims and approach for commissioning relevant services from each commissioning body, and an explanation of how the duty requirements have been met. When preparing the strategy, they will be required to have regard to particular issues and consult certain groups, set out in more detail below. This is to ensure that strategies are informed by existing local and national provision, and victims' voices and sector expertise. Provisions in the Bill would require local commissioners to carry out a joint assessment of the needs of victims of domestic abuse, sexual abuse and other serious violence to inform their strategy. This will involve local commissioners working together to produce an assessment of the needs of victims in the police area for relevant victim support services, and whether, and how, those needs are being met by the services which are available. Local areas will be able to make use of existing needs assessments including those carried out under Part 4 of the Domestic Abuse Act 2021 for example, when producing the joint needs assessment. The relevant bodies will also be required to review and revise this strategy from time to time.

38 This duty will be underpinned by guidance. This will address the practicalities of carrying out this duty, such as setting out what local collaboration structures may be used, and information to support strategy development – such as when the strategy should be published or revised, how best to take account of the joint needs assessment, or how best to reflect victims' voices and sector expertise. The guidance will also set out non-legislative oversight structures, which will enable consideration of local strategies and of any challenges arising out of this duty.

## Independent Advisors

39 Depending on their varying needs and experiences, victims of domestic and sexual abuse may require a range of support which, if appropriate, can be provided by Independent Domestic Violence Advisors (IDVAs) and Independent Sexual Violence Advisors (ISVAs). These advisors provide emotional and practical support to help victims make informed choices, navigate support services, and engage with the criminal justice system (if they choose to do so). The type and level of support provided by these advisors varies from case to case depending on the needs of the individual.

40 In "Delivering justice for victims: A consultation on improving victims' experiences of the justice system", the Government consulted on how to strengthen victim advocate roles, with a focus on ISVAs and IDVAs. The Government subsequently looked into how better join-up can be promoted across agencies, reviewing the standards they operate under, alongside guidance and frameworks.

41 The Bill contains provisions to raise the profile of the roles of ISVAs and IDVAs. The Bill will define an Independent Domestic Violence Advisor and an Independent Sexual Violence Advisor for the purpose of requiring statutory guidance to be published setting out more information about their roles. It is anticipated that the definitions and guidance will increase awareness of these roles among victims and agencies who work with ISVAs and IDVAs. The definitions are purposefully broad to reflect the wide scope of work carried out by these roles. They do not prescribe who can access support from ISVAs and IDVAs – but do reflect the fact that their core purpose is to support victims of criminal conduct of a sexual nature and domestic abuse. It is recognised that in practice the advisors may provide support beyond what is described in the definitions.

42 The Bill will create a duty for the Secretary of State to issue guidance about ISVAs and IDVAs. This guidance will improve clarity and awareness of the functions of these roles and encourage greater consistency across the sector. The guidance will include content on the core functions of the ISVA and IDVA role, their training, how they can support victims with specific needs (such as victims with particular protected characteristics), and how other individuals and relevant agencies can best work with ISVAs and IDVAs to holistically support victims. The guidance will reflect the broad nature of the roles and the need to consider support on an individual basis, including how ISVAs and IDVAs can best support children and other persons, including where appropriate the family and friends of the primary client. The Bill places duties to have regard to this guidance on ISVAs, and IDVAs. It also places duties to have regard to the guidance on those that have a function relating to victims of crime, or any aspect of the criminal justice system where they are exercising such a function and the guidance is relevant to the exercise of that function (with the exception of the Judiciary so as to preserve judicial independence). This aims to foster greater collaboration and effective working across agencies in order to support victims' needs. Engagement will take place with the Judiciary outside of this guidance to explore ways to overcome challenges ISVAs and IDVAs may face in the courtroom while supporting their clients.

## Restricting parental responsibility when one parent kills the other

43 The Bill requires the Crown Court to make a prohibited steps order ('a PSO') at the point of sentencing in cases where a parent has been convicted of the murder or manslaughter of the other parent.

44 The prohibited steps order will prevent the offender from exercising parental responsibility in respect of any children they shared with the victim until the family court reviews the order. Parental responsibility refers to all the rights, duties, powers, responsibilities, and authority which

by law a parent or guardian of a child has in relation to the child and their property. Examples of exercising parental responsibility include protecting and taking care of the child, making school and health decisions, and taking the child abroad. Parental responsibility can also be exercised in a manner that can frustrate the activities of those trying to care for the child, for example in refusing permission for a child to obtain a passport, in how it is exercised to determine the child's education and where the child goes to school or permission for medical treatment.

45 The Bill outlines that the prohibited steps order made by the Crown Court must make clear that the offender cannot take any steps in exercise of their parental responsibility without the consent of the High Court or the family court and that the prohibited steps order must remain in place until it is varied or discharged by the High Court or the family court.

46 The Bill allows for some circumstances where the Crown Court should not make a prohibited steps order. These circumstances are where a prohibited steps order that meets the requirements outlined above is already in place for the offender in question, or where it appears to the Crown Court that it would not be in the interests of justice to do so. The interests of justice exemption would only be available in circumstances where the offender has been convicted of voluntary manslaughter. An example of this may include a situation where a victim of domestic abuse kills their perpetrator.

47 The Bill will also place a duty on the local authority within whose area the child is ordinarily resident, or in the absence of such local authority, the local authority within whose area the child is present, to make an application to the family court to review the prohibited steps order made by the Crown Court within 14 days starting from the day after the order was made. The Bill will also require the local authority to make an application for the family court to subsequently review the prohibited steps order where the affected parent is acquitted on appeal of the murder or voluntary manslaughter which resulted to the making of the prohibited steps order; as with the initial timeline this application must be made within 14 days after the verdict of acquittal was entered. The Bill includes a power for the Lord Chancellor to amend either time limit by regulations.

48 The Bill includes a power for the Lord Chancellor to make regulations to amend, repeal or revoke any provision that is made by existing primary legislation and is consequential on the provision.

## Domestic Abuse Related Death Reviews

49 Domestic Homicide Reviews (DHRs) are multi-agency reviews that identify and implement lessons learnt from deaths of those aged 16 or over which have, or appear to have, resulted from violence, abuse or neglect inflicted by someone to they are related to, in an intimate relationship with or live in the same household as. DHRs are legislated for via the Domestic Violence, Crime and Victims Act 2004 and in 2016 the Government updated the statutory guidance to clarify a DHR should be commissioned when a person dies by suicide and the circumstances give rise to concern (for example, it emerges that there was coercive or controlling behaviour in the relationship).

50 The Bill inserts new section 8A which provides for Domestic Abuse Related Death Reviews to replace Domestic Homicide Reviews under section 9 of the 2004 Act in England and Wales. It will bring the circumstances under which a Domestic Abuse Related Death Review is considered in England and Wales in line with the Domestic Abuse Act 2021 definition of domestic abuse.

51 The definition of domestic abuse set out in the Domestic Abuse Act 2021 includes controlling or coercive behaviour, emotional abuse and economic abuse. It also clarifies that domestic abuse happens between individuals who are 'personally connected' via intimate or family relationships. Providing for a Domestic Abuse Related Death Review to be considered when a death has or appears to have resulted from domestic abuse as defined in the Domestic Abuse Act 2021 has the intention of ensuring Domestic Abuse Related Death Reviews contribute to understanding of

domestic abuse, as well as encouraging consistency in decision making for reviews when domestic abuse has been identified. The provision would also prevent reviews from being commissioned when individuals are cohabiting but not personally connected.

52 Domestic Abuse Related Death Reviews can be commissioned following a homicide, a victim taking their own life after experiencing domestic abuse or in circumstances that are unexplained but give rise to concern. Providing for Domestic Abuse Related Death Reviews aims to better reflect the range of deaths that are within scope of a review and to prevent confusion when conducting reviews into suicides or unexpected deaths.

53 The Bill makes consequential provision to ensure that Northern Ireland Domestic Homicide Reviews will continue to take place under section 9 of the 2004 Act.

## The role of the Victims' Commissioner

54 The Secretary of State is required to appoint a Commissioner for Victims and Witnesses, as set out in section 48 of the 2004 Act. The Commissioner's functions are set out in section 49 of that Act.

55 The Bill will amend the 2004 Act to ensure the Victims' Commissioner is able to undertake these functions as effectively as possible and promote the interests of victims and witnesses across England and Wales. To ensure the ongoing visibility of the Victims' Commissioner and increase parliamentary and public focus on victims' experiences, the Bill will create a requirement for the Victims' Commissioner's annual report to be laid before Parliament.

56 The Bill will also place a duty on specified relevant criminal justice agencies and Government departments to respond to any recommendations made to them within the Victims' Commissioner's reports within 56 days of the report being published. The response will have to set out the actions taken or proposed actions in response to the recommendation, or set out why the agency has not taken, or does not propose to take, action in response to the recommendation. These responses must be published, and a copy sent to the Victims' Commissioner and the Secretary of State.

57 Additionally, although Police and Crime Commissioners will have oversight of the operation of the Victims' Code at a local level, the Victims' Commissioner will retain the existing responsibility to keep under review the overall operation of the Code. It is intended that the Code compliance oversight guidance will contain information regarding mechanisms that will be available to the Victims' Commissioner, should they choose to utilise them in order to work with Police and Crime Commissioners in their new role.

## Joint thematic inspections of victims' issues

58 The criminal justice inspectorates all have a responsibility for assessing the efficiency and effectiveness of the criminal justice agencies they oversee. Each inspectorate currently has its high-level functions set out in differing pieces of legislation. This legislation includes provision on how the inspectorates act jointly. This broadly sets out that the inspectors shall act together to prepare a joint inspection programme, setting out what inspections they propose to carry out to effectively discharge their functions. It also states that the Secretary of State (which in practice will usually be the Home Secretary and the Justice Secretary), Lord Chancellor and the Attorney General may jointly direct when a joint inspection programme is prepared and what form it should take. It is envisaged that the inspectorates will continue to agree and set out their proposed joint inspection programme in a Joint Business Plan, which typically covers a period of two years.

59 The inspectorates do already work together effectively to undertake joint thematic inspections. However, to ensure that their programme of work regularly includes a focus on victims' issues, the Bill will introduce the ability for relevant Ministers to direct joint thematic inspections by

criminal justice inspectorates to assess the experiences and treatment of victims throughout the entire criminal justice process. The policy intention behind requiring these joint thematic inspections is to make inspectorates more effective at: identifying key issues in relation to victims across the whole system; understanding the cause of these issues and the best ways to address them; and making recommendations that will ensure improvements in the service provided to victims.

60 This requirement will apply to the following inspectorates:

- HMI Constabulary and Fire and Rescue Services (HMICFRS) (who hold responsibility for assessing the effectiveness of police forces and fire and rescue services), but only to their functions relating to police forces
- HM Crown Prosecution Service Inspectorate (HMCPSI) who hold responsibility for assessing the effectiveness of the CPS and the Serious Fraud Office
- HMI Probation (HMIP) who inspect probation and youth offending services
- HMI Prisons (HMIP) who inspect prisons and young offender institutions.

61 The Bill will create a new power for the Secretary of State (which in practice will usually be the Home Secretary and the Justice Secretary), Lord Chancellor and the Attorney General acting jointly, to require any of the above inspectorates to carry out a joint inspection assessing victims' experiences and treatment and to specify when this should be carried out. The intention is to use the power for the purpose of specifying in which given joint inspection business plan cycle an inspection is to take place.

62 There is no dedicated inspectorate for His Majesty's Courts and Tribunals Service (HMCTS). The Public Bodies (Abolition of HM Inspectorate of Courts Administration and the Public Guardian Board) Order of 2012 abolished HM Inspectorate of Court Administration (HMICA) and set out that any of the four remaining criminal justice inspectorates may inspect any aspect of the Crown Court or Magistrates' Courts in relation to their criminal jurisdiction, which could have been inspected by HMICA. HMCTS have been assessed since then as part of joint thematic inspections.

## Duty on criminal justice inspectorates to consult the Victims' Commissioner

63 While some inspectorates already routinely consult the Victims' Commissioner, during the pre-legislative scrutiny process, stakeholders drew attention to the lack of a formal consultative role. It is important that the needs of victims are robustly considered within criminal justice inspections. The Bill therefore places a duty on criminal justice inspectorates to consult the Victims' Commissioner when developing their work programmes and frameworks.

64 Existing legislation requires inspectorates to consult a variety of stakeholders on inspection frameworks and programmes – such as the other criminal justice inspectorates, the Commission for Healthcare Audit and Inspection and the Auditor General for Wales. The Bill will amend this legislation to include the Victims' Commissioner alongside the existing mandatory consultees.

## Removal of MP filter in relation to victims' complaints referred to the Parliamentary Commissioner for Administration

65 The Parliamentary and Health Service Ombudsman (PHSO) combines the two statutory roles of Parliamentary Commissioner for Administration (PC) and the Health Service Commissioner for England. The PC can investigate, and make final decisions on, all complaints made against a specified set of Government organisations and UK public organisations.

66 Currently, a complaint falling within the Parliamentary Commissioner's jurisdiction must be referred to a member of the House of Commons before the Parliamentary Commissioner can investigate the complaint. This can cause delays in the process. The policy aim is to make the complaints process more streamlined for victims who may not want to share their traumatic experiences at multiple stages, and to achieve faster outcomes from the process.

67 The Bill will remove the need to refer a complaint via a person's MP and replace it with a dual access system. Under this process, a complaint relating to the complainant's experiences as a victim can be made directly to the Parliamentary Commissioner by:

- The person affected,
- A person authorised by them (including an MP), or
- Where they are deceased or otherwise unable to make the complaint or authorise another person to do so, their personal representative or another person (e.g., a family member) the Parliamentary Commissioner assesses as suitable to represent them (section 6(2), Parliamentary Commissioner Act 1967).

68 These measures will continue to allow for the affected person's MP to be kept informed of the results of an investigation or a statement of the Parliamentary Commissioner's reasons for not conducting an investigation, even if the complaint was not made by the MP on their behalf, but only if the affected person has consented to the report or statement being sent to an MP. Where the Parliamentary Commissioner makes a finding that there has been maladministration or a failure to perform a relevant duty, the Parliamentary Commissioner may lay a special report before Parliament. This is consistent with the Parliamentary Commissioner's function, which is to assist Parliament in its scrutiny role.

69 Removal of the 'MP filter' will only apply to persons whose complaints relate to their experiences as victims of crime, for whom approaching an MP to share a potentially traumatic experience is more likely to be a barrier to making a complaint. This does not constitute an indication that the Government intends to remove the MP filter more widely.

## Victim information requests for purposes of a criminal investigation etc.

70 When investigating a crime, the police and other law enforcement authorities can request information about a victim from a third party to support a reasonable line of enquiry. This information is commonly referred to as 'third party material' or 'TPM' and may include, but is not limited to, any relevant medical, education or social service records.

71 The Government's End to End Rape Review found that requests for third party material are sometimes unnecessary and disproportionate, and focused on victim credibility. Responses to the 'Police Requests for Third Party Material Consultation' (June to August 2022) further corroborated

these findings and demonstrated support for legislative clarification. Subsequently, the Government committed to legislate to ensure that any third party material requested by an authorised person is necessary and proportionate to the investigation and to create a code of practice to ensure consistency across requests.

72 These measures in the Bill define certain conditions authorised persons (including the police, British Transport Police, National Crime Agency), the service police and the Service Police Complaints Commissioner (SPCC), must meet before making the victim information request.

73 Under these measures an authorised person, the service police, and the SPCC will have a duty to only request information on victims of criminal conduct where it is necessary and proportionate in pursuit of a reasonable line of enquiry. These persons must also notify the victim about whom the information is being requested or other relevant person for example in the case of children, missing or vulnerable persons. This includes a written notice detailing what information is being sought, why, and how it will be used. The authorised person will also have a duty to provide clear and detailed information to accompany victim information requests to third parties, unless it would be inappropriate to do so. This must include clear details about the information being sought and the reason why and how the material will be used. Finally, these measures impose a duty to have regard to the accompanying code of practice with the intention of ensuring that police requests for victim information are necessary and proportionate.

## Victims of Major Incidents (Appointment of Advocates)

74 The call for Advocates for victims of major incidents arises from the lessons learned from the 1989 Hillsborough Disaster. The investigation and inquests that followed that tragedy were heavily criticised and the families had to fight for many years to get to the truth of what happened on that fateful day.

75 Although important reforms have been made in recent years to support and empower victims of major incidents, the aftermath of a major incident can involve multiple rules and procedures that are unfamiliar to most people. This can be daunting, confusing, and overwhelming.

76 Introducing The Advocates for victims of major incidents has been a long-standing Government commitment which was set out in the 2017 Queen's Speech. The IPA will provide advice and support to victims of a major incident which could include any investigation, inquest and inquiry that follows.

77 The Ministry of Justice consulted on the proposal to establish advocates for victims of major incidents in 2018. A high-level response to this consultation was published alongside a statement from the Government in March 2023 announcing the creation of Advocates for major incidents and setting out the intention to place it on a statutory footing. The measures in this Bill do this.

## Infected Blood Compensation Body

78 The Infected Blood Inquiry is ongoing, and was established in 2017 to examine the circumstances in which individuals treated by national health services in the UK were given infected blood and blood clotting products sourced from the USA, in particular since the 1970s and 1980s, and contracted HIV, Hepatitis C and/or Hepatitis B viruses.

79 This clause requires the Secretary of State to establish a body to administer a compensation scheme to victims of the infected blood scandal, within three months of passing the Act. For the purposes of the Act, a victim of the infected blood scandal is defined with reference to the Infected Blood Inquiry's ("the Inquiry") Second Interim Report, as laid in Parliament on 19 April 2023, which made recommendations as to who should be eligible for admittance to such a scheme.

## The Parole Board and prisoner release

80 The Parole Board was established in 1968 under the Criminal Justice Act 1967. It became an independent executive non-departmental public body (NDPB) on 1 July 1996 under the Criminal Justice and Public Order Act 1994. It works to protect the public by risk assessing parole-eligible prisoners to decide whether they can be safely released on licence into the community and to confirm the continued detention of the prisoner where they cannot.

81 Whilst elements such as general risk of re-offending and good behaviour in prison are taken into account by the Board, it is important to stress that the offender's potential risk of causing serious further harm to the public is the deciding factor in parole decisions. If the Board determines that an offender's risk cannot be safely managed in the community through licence conditions and supervision by the Probation Service, then they will not be released and will remain in prison pending a further review, which normally occurs every 12 to 24 months.

82 Each year the Parole Board reviews around 26,000 cases. In 2020/21, the Parole Board conducted 23,453 paper considerations and 9,202 oral hearings. Of the total cases concluded in any given year, fewer than one in four prisoners reviewed are judged to meet the statutory test for release. Less than 0.5% of prisoners released by the Parole Board are convicted of a serious further offence within three years of the release decision having been made.

83 The Parole Board's procedures are governed by the Parole Board Rules, which are made by the Secretary of State for Justice through secondary legislation under the Criminal Justice Act 2003 ("the 2003 Act") and subject to the negative procedure.

84 There are several different sentence types that may bring an offender into contact with the Parole Board, making them "parole-eligible" sentences. These sentences are Extended Determinate Sentences, Sentences for Offenders of Particular Concern, Life Sentences and Sentences of Imprisonment for Public Protection (IPP). Additionally, all standard determinate sentenced terrorist offenders will go before the Parole Board under section 247A of the 2003 Act, as will standard determinate sentenced offenders who are deemed to be dangerous and are referred to the Board instead of being released automatically under section 244ZB of the 2003 Act.

85 Extended determinate sentences are available for offenders convicted of certain specified violent, sexual or terrorism offences whom the court determines to be "dangerous", and Sentences for Offenders of Particular Concern are available for offenders convicted of certain terrorism offences and the two most serious sexual offences against children. Under these sentences, an offender is considered for release by the Parole Board between the two-thirds and end point of the custodial term. If not released earlier, they are automatically released at the end of their custodial term and serve an extended period (Extended Determinate Sentenced prisoners) or an additional 12-month period (Sentences for Offenders of Particular Concern prisoners) on licence.

86 Life sentences in almost all cases spend a minimum period in custody (a 'tariff', set by the court) before consideration for release by the Parole Board. Many offenders remain in prison beyond their tariff, and some may never be released. If an offender is released, they will remain on licence for the rest of their life and will be subject to recall to prison at any time. There are currently three types of life sentence available to the court: mandatory life sentences must be imposed on anyone convicted of murder; discretionary life sentences apply to a range of offences that carry a maximum penalty of life imprisonment (e.g., manslaughter, rape, and robbery); life sentence for a specified second offence is available for adult offenders who have been convicted of a second specified violent, sexual or terrorism offence.

87 Imprisonment for Public Protection (IPP) sentences were introduced in 2005 as an indeterminate sentence targeted at serious offenders who did not merit a life sentence. Under the sentence, offenders were given a minimum term that had to be served in full in custody. At the end of the

term, they can be released only if the Parole Board is satisfied that they are safe to be released on licence. IPP sentences were abolished in 2012, although not retrospectively, so there are still IPP offenders in custody who are subject to Parole Board release (including both those who are awaiting first release and those who have been recalled).

88 In 2019, the Conservative Party's Manifesto committed to conducting a Root and Branch review of the Parole system to improve accountability and public safety.

89 In March 2022, the Ministry of Justice published the Root and Branch Review of the Parole System. The review set out a range of reforms to the parole system to increase transparency, improve victims' experience and improve public safety. The review also proposed several changes that require primary legislation, including refining the statutory release test to make it more prescriptive and introducing a power for the Secretary of State to review release decisions for the most serious offenders. These changes are the subject of this section of the Bill, along with changes to the appointment of Parole Board members and the role of the Chair.

## The Statutory Release Test

90 The Statutory Release Test is used by the Parole Board when assessing whether it is safe for a prisoner to be released into the community. This test was set out in the Criminal Justice Act 1991 for the release of those persons serving discretionary life sentences and was extended to all parole-eligible prisoners via the 2003 Act. It states:

"The Parole Board must not give a direction [for release]… unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined"

91 The Root and Branch Review set out the Government's intention to amend this statutory release test to ensure that the focus is on the potential risk posed by an offender when the Board is considering them for release. The review explained that the Government believes it is properly the prerogative and responsibility of Parliament to set out the conditions that help define the level of risk which a prisoner must present in order to keep the public safe, and the Government's responsibility to ensure that the conditions are met. The Bill achieves this by clarifying that the purpose of the release test, which has been subject to varied interpretations in the past (see Legal Background), is to minimise any risk, as far as is reasonably possible, to the safety of the public. To achieve this, the Bill introduces a clear list of criteria the Board must take into account when applying the test in order to remove ambiguity.

## Top-tier Cohort

92 The Root and Branch review set out the need for a more precautionary approach to releasing offenders, in particular, those who have committed the most serious offences and who may go on to commit another offence that causes serious harm if released. The review identified a need for greater safeguards whenever the Parole Board determines that any of these prisoners is suitable for release. The Review, therefore, proposed the creation of a "top-tier" cohort of prisoners who have committed murder, rape, certain terrorist offences or who have caused or allowed the death of a child. The Review concluded that any decision to release an offender in the top tier should be subject to greater ministerial scrutiny.

93 The Bill creates and defines the "top-tier" cohort whose release decisions will be subject to greater scrutiny. The cohort will also include all transferred offenders, service offenders and repatriated offenders who have committed top tier offences and whose release is subject to the parole system of England and Wales. Inchoate offences (preparatory or anticipatory versions of the top-tier offences) are not included in the top tier list.

## Secretary of State's powers

94 The Bill creates powers to enable the Secretary of State, if they so decide, to review any case in which the Parole Board has decided to release a top tier prisoner and refer on to a relevant court for a second check.

95 If the Parole Board determines that a top tier prisoner presents no more than a minimal risk of committing a serious offence on release and is, therefore, eligible for release, it must notify the Secretary of State of its decision. There are two existing mechanisms for the Secretary of State to require the Parole Board to review a decision to release a prisoner. If, the Secretary of State considers that the decision is procedurally unfair, irrational or there has been an error of law, they can apply for the Parole Board to reconsider its decision through the existing reconsideration mechanism. If the Secretary of State considers the Parole Board made an error of law or fact in their decision, or that there is new information or a change of circumstances coming to light since the decision which, had the Board known the information, would mean that the Parole Board would not have made the release decision, the Secretary of State can apply to the Parole Board to have the decision set aside if it is in the interests of justice to do so.

96 The new measures will provide that, where the Board have directed release of a prisoner who has committed a top-tier offence, the Secretary of State may direct the Board to refer the case to either the Upper Tribunal or the High Court (the 'relevant court') to retake the decision. The Secretary of State may only refer a case where they consider that the release of the offender would undermine public confidence in the parole system and that the relevant court may reach a different decision. The Secretary of State may direct such a referral without first asking the Board to reconsider, or set aside, its decision.

97 The relevant court in most cases will be the Upper Tribunal. However, in a small number of parole cases, sensitive information relating to national security is relevant. Where this is the true, the referral will instead be to the High Court, who are better placed to deal with such cases.

98 On referral at the Secretary of State's request, the Secretary of State is not required to give effect to the Parole Board direction for release until the relevant court has determined whether to uphold the direction or to quash it. The relevant court is required to apply the same release test as the Parole Board and to make a judgement as to level of risk the prisoner may pose to public safety if released. The relevant court must not release the prisoner unless satisfied that their imprisonment is no longer necessary for public protection: i.e., that the prisoner presents no more than minimal risk of committing an offence that would cause serious harm if released on licence.

## Interpretive provision relating to the release legislation

99 The Bill also contains two measures which will guide interpretation of the new parole clauses, as well as Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 Act ("the 1997 Act"), Chapter 6 of Part 12 of the 2003 Act, section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ("LASPO"), and all secondary legislation made under these provisions ('the release legislation'). These provisions span the full legislative framework in England and Wales relating to release, licences, supervision, and recall of indeterminate and determinate sentenced offenders.

100 The measures disapply section 3 of the Human Rights Act 1998 ("the HRA") so that if incompatibilities do arise with the new parole measures, or any of the other release measures, courts (and others) will not be under the obligation to interpret the provisions compatibility "so far as it is possible to do so". The purpose of this is to avoid courts adopting a strained section 3 interpretation, which ultimately disregards the policy intentions of the release regime. The measures also provide that, where a court is considering a challenge relating to a relevant Convention right, in relation to application of any of the release legislation, the court must give the greatest possible weight to the importance of reducing the risk to the public from the offender.

# The Parole Board

## Membership

101 The Parole Board is an independent statutory body that exercises its role by convening panels of Parole Board members to make a detailed assessment of a parole-eligible prisoner's risk to the public and their suitability for release. Parole Board members are public appointees, appointed by the Secretary of State. These members are either judicial (serving or retired judges), specialist (with psychologist or psychiatric qualifications), or independent (with significant experience of the criminal justice system).

102 The Root and Branch Review of the Parole System set out the Government's intention to increase the number of independent Parole Board members with law enforcement experience, such as former police officers and for these members to sit on panels for 'top-tier' offenders. This is intended to bring a different perspective on offending and offenders from those with first-hand experience of assessing risk to the public, adding to the collective knowledge and experience of the Board. The Board already has a small number of independent members with law enforcement experience and the Ministry of Justice has recently launched a campaign to recruit more such members.

103 To ensure that law enforcement experience is embedded within the Parole Board, the Bill requires the Board to include among its members those with law enforcement experience: those with experience in the prevention, detection, and investigation of offences.

104 The Bill also gives the Secretary of State the power, through the Parole Board Rules, to prescribe that particular classes of cases be dealt with by members of a particular description. This power will be used, in the first instance, to require any panel considering a top tier case to include at least one member with law enforcement experience. Knowing that those parole decisions are being made by those with different insight into offenders' behaviour will help to strengthen public confidence in the Parole Board. The power will enable future changes to be made to configuration of panel expertise, to maximise members' particular skill sets.

## The Chair of the Parole Board

105 The Chair of the Parole Board, as with Parole Board members, is a public appointment and appointments are made by the Secretary of State for Justice under paragraph 2(1) of Schedule 19 of the 2003 Act. Currently, the exact terms of this appointment are not set out in legislation. The Bill will provide that the Secretary of State appoints the Chair for a five-year tenure, which may be renewed for a further five years. The role will remain a public appointment.

106 There is no detailed statutory provision made for the grounds or process for removal of the Chair or the remainder of the Parole Board membership. In 2018, the Secretary of State agreed a termination protocol with the Board.

107 The agreed Protocol sets out grounds and process for removal of the Chair and other Parole Board members by a panel which includes a representative of the Secretary of State, a representative of the Parole Board and an independent member. For the Chair, the grounds are if they have been absent, without reasonable excuse, from their office and not fulfilled its functions for a continuous period of at least three months; have been convicted of an offence; are an undischarged bankrupt or; become, for any reason, incapable of carrying out their duties and the panel concludes that the Chair is therefore unfit or unsuitable to continue as Chair of the Parole Board and recommends the Secretary of State remove the Chair on this basis. These grounds for removal are similar to those for other Non-Departmental Public Body Chairs.

108 The Parole Board's key function is to protect the public through robust determinations on release informed by the making of risk assessments. It is important that the public have confidence that it

is performing this role. The decision-making process can be unclear and, on occasion, gives rise to public concern. Given the organisation is subject to such attention, it is vital that it commands the confidence of the public at all times. To ensure that the Parole Board Chair is properly accountable to the Secretary of State for such matters, the Government has decided it necessary to legislate to enable the Secretary of State to remove the Chair if that is necessary to maintain public confidence in the organisation.

109 As the Parole Board plays a crucial role in protecting the public, it is not unreasonable for the public to expect ministers to provide robust oversight of the Board and the decisions it takes. The provisions in this Bill for the Secretary of State to review top tier cases and veto release decisions demonstrates that the Government takes its responsibilities seriously. By setting out in statute the functions the Chair of the Parole Board is expected to fulfil and enabling the Secretary of State to remove the Chair from post in certain circumstances, oversight of the parole process will be additionally strengthened. To ensure continuity of tenure and independence of the Board, the length of the Chair's appointment will be extended, and set out expressly (alongside that of the Vice-Chair) in the Bill.

110 The new power of dismissal, if necessary to do so to maintain public confidence in the Parole Board, enables unilateral action by the Secretary of State in relation to one of the Department's arms-length judicial bodies. The Bill will therefore create a ring-fence to prevent the Chair's involvement in its judicial functions. The provisions clarify that, although the Parole Board performs judicial functions in its decision-making in individual cases, the Chair has a non-judicial role, responsible for leading the organisation, ensuring a strategic direction is set and reviewed, and promoting awareness of the Board and the role it plays in public protection. To achieve this, the Bill sets out the Chair's new functions, as well as the activities that the Chair must not participate in, so that postholder remains completely separate from the Board's assessment of individual parole cases.

111 The measures relating to the role of the Chair of the Parole Board will not apply to the incumbent Chair on introduction of the Bill, but will apply to any future post-holders once the provisions are commenced.

## Imprisonment or detention for public protection: termination of licences for public protection

112 The Imprisonment for Public Protection sentence is an indeterminate sentence where courts set a minimum term (tariff) commensurate with the offending which has to be served in prison. At the end of the tariff, and at least every two years after, the Secretary of State must refer the case to the Parole Board who either release if the statutory test is met, or confirm the further detention. If released, the offender is subject to a life licence. At the end of the qualifying period (currently 10 years) the Parole Board can direct the Secretary of State to order that the licence is to cease to have effect, and end the IPP sentence.

113 Opposition to the IPP sentence has come from families of IPP prisoners, prison reform groups and parliamentarians, particularly in the House of Lords. Successive governments have resisted significant legislative reform on the grounds of public protection, the main concern being that releasing offenders who have been too dangerous for release by the Parole Board presents a real risk of further serious offending.

114 The HMPPS IPP Action Plan, published in April 2023, has provided intensive help for IPP offenders to reduce their risk and work towards Parole Board release. These efforts have resulted in a significant fall in the IPP prison population who have never been released. The Justice Select Committee (JSC) published their report on the IPP Sentence on 28 September 2022 following a year long inquiry. One of the recommendations was that the point of eligibility for licence

termination should be brought forward to five years following first release. The Government and Parole Board's official response was published on 9 February 2023. These amendments adopt one of the JSC's recommendations.

115 The measure in this Bill will reduce the current licence termination qualifying period from 10 years to three years. Where the licence is not terminated by the Parole Board the licence will be automatically terminated where there is a further two year period in the community without being recalled to prison (the 'good behaviour period'). Re-release from recall will reset the automatic period. This is based on data that shows that recalls to prison primarily occur in the first three years after release, and reduce from year four onwards. If recalled to prison and subsequently released, the new two year "good behaviour" period provides offenders with an opportunity to demonstrate two years without recall to prison, and qualify for automatic termination of their licence.

## Restriction on marriage for whole life order prisoners

116 Currently, prisoners have a legal right to enter into marriage in the place of their detention, according to the Marriage Act 1983. The Civil Partnership Act 2004 provided for same sex couples to enter into a civil partnership, followed by the Marriage (Same Sex Couples) Act 2013. In December 2019, civil partnerships were extended to opposite sex couples, as Civil Partnership (Opposite-sex Couples) Regulations 2019 amended the 2004 Act.

117 Marriage and civil partnerships in prison are relatively infrequent. In 2022, around 60 prisoners applied to marry in prison, out of a total prison population of approximately 80,000.

118 Under current operational policy, as set out in PSI 14/2016 (Marriage of Prisoners and Civil Partnership Registration), where a prisoner wants to marry or enter into a civil partnership in a prison, he or she is required to obtain a statement of authority from the prison governor which states that there is no objection to the prison being named as the place at which the marriage or civil partnership will take place. The statement by the responsible authority is not required if the prisoner is getting married or entering a civil partnership outside the prison.

119 The measures in the Bill would prohibit prisoners who are serving a whole life order from marrying or forming a civil partnership. For prisoners who have been sentenced to a whole life order, it is considered that it would undermine confidence in the Criminal Justice System for them to be allowed to marry. This sentence is the single most severe punishment in UK criminal law and means that the offender must spend the rest of their life in prison. Whole life orders are reserved for those who have committed the most serious crimes, for example serial or child murders that involved a substantial degree of premeditation or sexual or sadistic conduct.

120 The Bill would provide that the Secretary of State may grant permission for a prisoner serving a whole life order to marry only where they consider such permission is justified on compassionate grounds in exceptional circumstances.

# Legal background

## The Victims' Code

121 The duty to issue a Code of Practice (the Victims' Code) and the procedure for doing so are already set out in primary legislation. The current provisions are sections 32 to 34 of the Domestic Violence, Crime and Victims Act 2004. This Bill repeals and restates these provisions in the 2004 Act with amendments, in addition to setting out the key principles that must be reflected in the services provided for in the Victims' Code and giving the Secretary of State a power to make

regulations setting out further matters which the Victims' Code must reflect. It also includes a new procedure for making minor amendments to the Victims' Code.

## Restricting parental responsibility when one parent kills the other

122 The Children Act 1989 ('the Act') defines parental responsibility as all the rights, duties, powers, responsibilities and authority that a parent of a child has in relation to the child and their property by law (section 3 of the Act). A child's mother will always have parental responsibility for her child (section 2 of the Act). If the parents are not married or in a civil partnership with each other when the child is born, only the mother automatically has parental responsibility. The unmarried father can acquire parental responsibility in a number of ways set out in primary legislation.

123 More than one person can have parental responsibility for a child at the same time, and a person with parental responsibility does not lose it solely because another person acquires parental responsibility (sections 19 and 52 of Adoption and Children Act 2002). If more than one person has parental responsibility, each can act independently unless there is a statutory requirement to consult the others (section 2(7) of the Act).

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

125 Section 9 of the Act provides detail on the restrictions that apply when a PSO is made. Section 10 of the Act outlines the power of the court to make a PSO.

## The Commissioner for Victims and Witnesses

126 The provisions in relation to the Commissioner for Victims and Witnesses are set out in primary legislation. The current provisions are sections 48 to 54 of the Domestic Violence, Crime and Victims Act 2004. This Act will continue to be the main Act dealing with the Victims' Commissioner, and this Bill inserts new provisions (see clause 17) into the 2004 Act.

## Inspectorates

127 The relevant provisions relating to joint inspections in respect of the following inspectorates are set out in primary legislation as follows:

a. The Police Act 1996 sections 54-56 and Schedule 4A

b. The Crown Prosecution Service Inspectorate Act 2000 sections 1 and 2 and the Schedule

c. The Criminal Justice and Court Services Act 2000 sections 6 and 7 and Schedule 1A

d. The Prison Act 1952 section 5A and Schedule A1.

128 These Acts will continue to be the main Acts dealing with inspectorate powers, and this Bill inserts new provisions (see clauses 19-22) into the schedules of the above Acts.

## The Parliamentary Commissioner

129 The provisions in relation to the Parliamentary Commissioner are set out in primary legislation. The relevant provisions for the purposes of this Bill are sections 5, 6 and 10 of the Parliamentary Commissioner Act 1967. This Act will continue to be the main Act dealing with complaints

referred to the Parliamentary Commissioner in relation to Government departments, and this Bill inserts new provisions (see clause 22) into the 1967 Act.

## Victim information requests for the purpose of criminal investigations (etc.)

130 The provisions in relation to victim information requests (third party material requests) for the purposes of criminal investigations insert new sections 44A-44F (Chapter 3A) into Part 2 of the Police, Crime, Sentencing and Courts Act 2022. The provisions introduce a new statutory duty on policing when making such requests.

131 The processing of the victim's personal information by policing pursuant to such requests will be regulated by the Data Protection 2018, the UK GDPR and the Human Rights Act 1998.

## Advocates for major incidents

132 The provisions that create advocates for major incidents are new. Clause 34 amends section 47 of the Coroners and Justice Act 2009 so that an advocate appointed to assist victims of a major incident will be an interested party to an inquest arising out of that major incident.

133 Clause 39 "Part 2: consequential amendments" inserts "An advocate for victims of major incidents appointed under Part 2 of the Victims and Prisoners Act 2024" into: paragraph 3 of Schedule 1 to the Public Records Act 1958; Schedule 2 to the Parliamentary Commissioner Act 1967; Schedule 1 to the House of Commons Disqualification Act 1975; Schedule 1 to the Freedom of Information Act 2000; and Schedule 19 to the Equality Act 2010.

134 The effect of these changes is that the Public Records Act 1958 will apply, which will require an advocate to take steps to preserve records; an advocate will be subject to provision in the Parliamentary Commissioner Act 1967 which sets out the circumstances when the Commissioner can investigate a written complaint which is made to a member of the House of Commons; an advocate will be disqualified from membership of the House of Commons; the Freedom of Information Act will apply and finally, the public sector equality duty will apply to advocates.

## Parole eligibility

135 Sentences of imprisonment are generally served part in prison and part in the community. Some types of sentence (for offenders who are more serious or dangerous) will be subject to discretionary release by the Parole Board ('parole eligible sentences'). Apart from standard determinate sentenced offenders who have not committed a terrorism offence (who are entitled to automatic release by the Secretary of State), all other types of sentence are parole-eligible at prescribed points. Determinate sentenced parole-eligible prisoners in England and Wales must be referred to the Parole Board, and subsequently released in accordance with the provisions contained in Chapter 6 of Part 12 of the 2003 Act which includes the legacy release provisions of the Criminal Justice Act 1991 which are restated in Schedule 20B of the 2003 Act. All indeterminate sentences are parole-eligible, and indeterminate sentenced prisoners who have reached the end of their minimum term are dealt with in accordance with Part 2 of the 1997 Act.

136 All offenders recalled to prison following an increase in their risk to public safety will go before the Parole Board for a decision on re-release or, where not released, confirming continued detention. Determinate sentence prisoners can also be executively re-released by the Secretary of State. Recalled determinate prisoners are dealt with via sections 254 to 256AZB of the 2003 Act; recalled indeterminate prisoners are dealt with under section 32 of the 1997 Act.

## Public protection test

137 Where the Parole Board has the function to determine release, it does so by applying the release test, also known as the public protection test, determining whether it is no longer necessary for the protection of the public that the offender remain confined, in order to decide if the offender should be released on licence. The release test has been subject to significant judicial commentary. In *R v Parole Board, ex p. Bradley* [1991] 1 WLR 134, the High Court held that the release test for indeterminate offenders whose minimum term had ended was a balancing exercise between the legitimate, but conflicting interests of both the prisoner and the public, and that the threshold to be met involved the risk posed being not merely perceptible or minimal. This concept of a balancing exercise was referred to again by the Court of Appeal in *R (Brooke) v Parole Board* [2008] 1 WLR 1950, where the Court was considering both determinate and indeterminate parole-eligible offenders.

138 A different position was established in the case of *R (King) v Parole Board* [2016] EWCA Civ 51, where the Court of Appeal made it clear there was no balancing test involved in the release test, and the threshold was simply if there is a more than minimal risk of harm if the prisoner was to be released, confinement of the prisoner will be required to avoid that risk. The changes to the public protection test in the Bill will codify the principles set out in *King* within the release test to create consistency in application and put beyond doubt the threshold the Board must apply.

139 Part of the clarification of the public protection test is to codify some of the key matters which the Board must consider when taking their decision. The Board is already required to take all relevant matters into account when taking their decisions (and the drafting makes it clear that the list does not fetter the matters the Board can take into account when making the decision); however, taking the approach of listing the significant considerations will put beyond doubt those matters upon which the public protection test focuses. This approach is based on the approach taken in Ireland via section 27(2) of the Parole Act 2019 (IE) and section 1 of the Criminal Justice (Temporary Release of Prisoners) Act 2003 (IE).

## Ministerial power to refuse release decisions to the Upper Tribunal or High Court

140 In the past, the Secretary of State for Justice had an oversight role as to release of prisoners under section 35(2) of the Criminal Justice Act 1991. Long term and life prisoners could be made subject to release on licence if the Board recommended release, subject to the Secretary of State agreeing that release following consultation with the Lord Chief Justice and trial judge. This mechanism was amended following several cases, including that of *Stafford v United Kingdom (46295/99)*, where the European Court of Human Rights held that ongoing post-minimum term detention requires determination of lawfulness by a court, in accordance with Article 5(4).

141 The new measures in the Bill restore oversight of the Secretary of State in the release of the most serious and dangerous offenders (the top tier), by creating the power, if the case is likely to undermine public confidence in the parole system and there is the chance the court may not be satisfied the release test is met, to refer that case to the Upper Tribunal or the High Court. The relevant court will then determine the release test afresh.

## National security information and parole proceedings

142 Some parole cases involve national security information. Rule 17 of the Parole Board Rules 2019 allows for certain material, including material which would adversely damage national security, to be withheld from the prisoner during the parole process, subject to a 'closed material process' which ensures procedural fairness to the prisoner, including the appointment of a special advocate to represent the prisoner's interests.

143 There is currently no comprehensive statutory or operational regime for the Tribunal to deal with national security information (which requires a closed material process). In cases where the parole decision involves national security information, the case will instead be referred to the High Court, via a certification process in line with the process in place for referrals to the Special Immigration Appeals Commission under section 2 of the Special Immigration Appeals Commission Act 1997. The specific legislation and systems for ensuring security of that material are already in place for the High Court (see Part 82 of the Civil Procedure Rules 1998 and sections 6 through 18 of the Justice and Security Act 2013). If information arises after the referral to the Upper Tribunal, certification will mean jurisdiction passes to the High Court, and the case can be transferred via rule 5(3)(k) of the Upper Tribunal Rules 2008. This process aims to ensure that a prisoner's right to procedural fairness and to fair proceedings under Article 6 are protected during a referral decision.

## Interpretive provision relating to Convention rights and the release legislation

144 The Bill contains interpretive provision in relation to judicial reviews of, and other legal challenges to, the release legislation, and decisions made under the release legislation.

## Imprisonment or detention for public protection: termination of licences

145 The IPP Sentence was introduced by the Criminal Justice Act 2003 (the 2003 Act) and could be imposed from 2005. The intention behind the sentence was to provide a means of managing high risk prisoners, who were convicted of an offence where the offender would be liable to imprisonment for life, but the court did not consider that the seriousness of the offence was such to justify the imposition of a sentence of imprisonment for life. In those cases, the courts had to impose an IPP sentence.

146 Amendments were made in 2008 to give the court a discretion to impose the IPP sentence and to restrict it to cases where at least a two-year tariff would be imposed, or where the offender had committed, or previously committed, an offence in Schedule 15A of the 2003 Act (the more serious violent or sexual offences).

147 The sentence is an indeterminate sentence where, similar to a life sentence, the courts will set a minimum term (tariff) commensurate with the offending which had to be served in full in prison This is the punitive part of the sentence. Post tariff the offender is serving the preventative part of the sentence and if safe to be managed in the community they can be released.

148 The current position is that at the end of the tariff, and at least every two years after, the Secretary of State must refer the case to the Parole Board, who either release or confirm the further detention of the prisoner. The Parole Board are required to apply the statutory release test as set out in s28(6) of the Crime (Sentences) Act 1997 (the 1997 Act). The statutory release test is that the Parole Board must be satisfied that it is no longer necessary for the protection of the public for the offender to be confined.

149 If released, IPP offenders are then subject to a life licence. However, in contrast to life sentence prisoners (and the only difference between the sentences), an IPP prisoner can have their licence terminated at the discretion of the Parole Board, once ten years has elapsed from the offender's first release by the Board. If not terminated at that, or subsequent points, the IPP licence could last indefinitely. Following an amendment in the Police, Crime, Sentencing and Courts Act 2022 (PCSC Act), offenders are automatically referred to the Parole Board for possible termination of

the IPP licence, once the qualifying period (currently ten years) has elapsed from their first release by the Parole Board, and annually thereafter.

150 The Secretary of State refers the case to the Parole Board at the end of the qualifying period (regardless of recalls or whether the offender is recalled and in custody at the point of referral) and annually thereafter, for the licence to be revoked. An IPP sentence is not ended until the Parole Board has decided to revoke the licence. Where offenders are recalled on the IPP sentence at this point, then the ending of their sentence will not take effect until they are next released.

151 From 4 December 2012, the IPP sentence was abolished by s123 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) because the perception was that it was used too widely and inconsistently with relatively short tariffs in many cases. This abolition was not applied retrospectively so as to not alter lawful sentences that had been imposed prior to the abolition.

152 Those who had already been sentenced to, and are serving an IPP sentence in prison, continue to be detained either because they had not yet served the tariff or they had served the tariff, and the Parole Board have determined that their risk remains too high for them to be safely managed in the community.

153 The new amendments will reduce the qualifying period from ten years, to three years and provide a power for this qualifying period to be amended by Statutory Instrument, and include a clear statutory presumption that the Parole Board must terminate the licence at the end of the qualifying period, unless they are satisfied that it is necessary for the protection of the public that the licence remains in force. They will also provide that if the Parole Board has not directed the Secretary of State to order that the licence be terminated, the Secretary of State must do so if the offender has been of good behaviour for a further two years, ie has not been recalled to prison in that time.

## Prohibiting whole life order prisoners from marrying in prison

154 Whole Life Orders are provided for by section 321 of the Sentencing Act 2020. This section provides that when a court passes a life sentence, it must make a minimum term order unless it is required to make a Whole Life Order. Subsection 3 sets out when a court is required to do so. Subsection 5 sets out that a Whole Life Order is an order that the early release provisions are not to apply to the offender. Therefore, such prisoners will serve the entirety of their life sentence in prison, with no possibility of release, except in exceptional circumstances on compassionate grounds.

155 Schedule 22 of the Criminal Justice Act 2003 sets out the transitional provisions applicable to prisoners given life sentences before the 2003 Act reformed the sentence and introduced the Whole Life Order. Such prisoners can apply to the High Court to have their sentences converted into ones under the 2003 Act framework, and the High Court cannot impose a sentence longer than the Secretary of State had previously notified them that they should serve. Therefore, the High Court can only impose a Whole Life Order on such prisoners if the Secretary of State had informed the prisoner that they did not intend that the prisoner should ever be released on licence.

156 The Marriage Act 1949 gives adults in England and Wales the right to marry. Restrictions on who can get married are set out on the face of the 1949 Act. There is an exhaustive list of marriages which are to be treated as void given in the Act. The fact that one prospective spouse is a prisoner is not currently an exception to the right to marry.

157 The 1949 Act was amended by the Marriage Act 1983 to enable marriage in prison following the decision of the European Commission on Human Rights in the case of Hamer v UK [1979] 12 WLUK 129. The 1983 Act enables marriages of house-bound and detained people to be

solemnized at the place where they reside. Amongst other things the 1983 Act also inserted section 27A (on solemnising marriages at a person's residence, including a prison) into the 1949 Act.

158 Where a "detained person" is seeking to get married, section 27A(3) of the 1949 Act requires that the marriage notice issued by the superintendent registrar is accompanied by a statement from the "responsible authority", which is a Governor in the case of a Prison. The statement given under section 27A must identify the establishment where the person is detained and state that the responsible authority has no objection to that establishment being specified in the notice of marriage as the place where that marriage is to be solemnized.

159 The extent of the power of a superintendent registrar or a prison governor to object to a prisoner's wedding under section 27A of the 1949 Act was considered in the Court of Appeal judgment in J v B [2002] EWCA Civ 1661. The Court found that neither the registrar general nor a prison governor had powers to prevent the marriage. In respect of the governor, public policy considerations did not entitle them to adopt an interventionalist role in proceedings because section 27A(3) of the 1949 Act only allowed objections to prison marriages on practical and logistical grounds.

160 Where a detained person proposes to enter a civil partnership, section 19(4) of the Civil Partnership Act 2004 (the "2004 Act") provides for an equivalent statement to be given by the responsible authority as is required by section 27A(3) of the 1949 Act.

# Territorial extent and application

161 The Bill extends and applies to England and Wales only, with the following exceptions:

a. Clauses 12 – 14 (duty to collaborate in the exercise of victim support functions) extend to England and Wales but apply to England only;

b. Clause 17 (Domestic abuse related death reviews) extends and applies to England and Wales and Northern Ireland;

c. Clause 23 (the Parliamentary Commissioner for Administration) and the consequential amendment in clause 27(3) extend and apply to England and Wales, Scotland, and Northern Ireland (and for these purposes the definition of "victim" in clause 1 applies to England and Wales, Scotland, and Northern Ireland);

d. Clause 25 (information relating to victims: service police etc.) extends and applies to England and Wales, Scotland and Northern Ireland.

e. Clause 39(1) – (4) (Part 2: consequential amendments) extend and apply to England and Wales, Scotland and Northern Ireland. Subsection (5) extends and applies to England and Wales and Scotland;

162 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. It is the view of the UK Government that aspects of Parts 1 and 2 of the Bill fall within the legislative competence of Senedd Cymru. Conversations are ongoing with the Welsh Government over securing Legislative Consent Motion support for these clauses.

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

# Commentary on provisions of Bill

## Part 1: Victims of Criminal Conduct

### Meaning of "victim"

#### Clause 1: "Meaning of Victim"

164 Clause 1 defines a "victim" for the purpose of this Part of the Bill.

165 Subsection (1) describes a victim as somebody who has been harmed by a crime **and** is the person against whom the crime is committed *or* somebody who fits into one or more of the categories in subsection (2).

166 Subsection (2) captures other individuals who can be a victim for the purposes of this Part of the Bill, if they have suffered harm, in addition to the person against whom the crime is committed. It includes:

a. Those harmed as a result of witnessing criminal conduct, meaning those who see, hear, or directly experience the crime in live time.

b. Individuals born as a result of rape or any sexual offence that can directly result in a pregnancy.

c. Close family members of individuals killed by criminal conduct. This reflects the current Victims' Code which specifies that bereaved families are victims for the purposes of the Code.

d. A child under 18 years of age who sees, hears, or experiences the effects of domestic abuse which constitutes criminal conduct between adults (aged 16 and older). This is to be read in accordance with the definition of a victim of domestic abuse in Part 1 section 3 of the Domestic Abuse Act 2021.

167 Subsection (4) defines:

a. "Harm" as including physical, mental or emotional harm (which captures both diagnosed and undiagnosed psychological condition or impacts on the person) and economic loss. This does not require the "harm" caused to the individual to be verified by another party, professional or otherwise; and,

b. "Criminal conduct" which means conduct which constitutes an offence in England and Wales, except for in relation to Clause 23, where it covers conduct which constitutes an offence in the UK, because the Parliamentary Health Services Ombudsman is a UK-wide body.

168 Subsection (5) confirms that a person can be a victim of criminal conduct for the purposes of this clause, irrespective of whether or not an offender is charged or convicted, including where the crime has not been reported. This ensures that the provisions of the Code issued under Clause 2 can cover the provision of services to victims at all stages of the criminal justice process and to victims of offences in respect of which no criminal proceedings are eventually brought (including where the victim chooses not to report the crime) or where criminal proceedings result in a not-guilty verdict

169 Subsection (6) makes an amendment to the definition of "victim" in section 52 of the Domestic Violence, Crime and Victims Act 2004 to ensure consistency between the two provisions.

# Victims' Code

## Clause 2: The Victims' Code

170 Clause 2 restates, with amendments, the provisions of section 32 of the Domestic Violence, Crime and Victims Act 2004 (the 2004 Act) that relate to the requirement to issue a Code of Practice (subsection (1)) in respect of the services to be provided to victims by persons who have functions relating to victims or the criminal justice system as a whole.

171 Subsection (3) inserts a new subsection into the re-stated provisions of the 2004 Act stating the key principles that must be reflected in the services provided under the Victims' Code.

172 These principles are that victims of criminal conduct:

- should be provided with information to help them understand the criminal justice process;
- should be able to access services which support them (including, where appropriate, specialist services);
- should have the opportunity to make their views heard in the criminal justice process; and
- should be able to challenge decisions which have a direct impact on them.

173 Subsection (4) give the Secretary of State a power to make regulations making further provision about the Victims' Code, including matters that the Code must include, subject to the restriction in subsection (5).

174 Subsections (6)-(8), as substantively restated from the 2004 Act allow the Code, amongst other things to:

- differentiate between different types of victims, for example so that particularly vulnerable victims might receive a faster service, or a service tailored to their needs;
- benefit persons other than the victim, such as those who might represent the victim like parents of victims who are children; and
- allow for regional variations in the way that services are provided to victims so that the Code can reflect local practices.

175 Subsection (9) provides that the Code may not require anything to be done by a person acting in a judicial capacity (or someone acting on their behalf in that capacity) or by a person acting in the discharge of a prosecutorial function if that function involves exercising a discretion.

176 Subsection (11) is a transitional provision designed to ensure the continuity of the Victims' Code.

## Clause 3: Preparing and issuing the Victims' Code

177 Clause 3 restates the procedure for issuing and amending the Code as set out under section 33 of the Domestic Violence, Crime and Victims Act 2004. However, historic references to the Secretary of State for Justice and the Secretary of State for the Home Department have been amended to refer instead to "the Secretary of State", which is defined in the Interpretation Act 1978 and means one of His Majesty's Principal Secretary of State. In practice this power is expected to be exercised by the Secretary of State for Justice acting in consultation with the Secretary of State for the Home Department. Subsections (6)-(8) set out the procedure for the new Code to be laid in Parliament and provide for it to be brought into operation.

## Clause 4: Revising the Victims' Code

178 Clause 4 confirms that the procedure set out in clause 3 must be followed when revising the Victims' Code once it has been brought into operation. These provisions are restated from section 33(8) and (9) of the Domestic Violence, Crime and Victims Act 2004.

179 It also creates a new secondary procedure for making amendments to the Victims' Code, which can be used where the Secretary of State considers the revisions to be minor. Such amendments can be made without a public consultation and include corrections, clarifications and revisions which reflect changes to the law or practice or procedure of the criminal justice system. Subsection (5) states that, under this procedure, the Secretary of State must consult the Attorney General; lay a new Code before Parliament and stipulate via regulations when the new Victims' Code will come into force.

## Clause 5: Effect of non-compliance

180 Clause 5 restates section 34 of the Domestic Violence, Crime and Victims Act 2004 and provides that a failure to comply with the Code does not, in itself, give rise to any liability to criminal or civil proceedings.

## Clause 6: Code awareness and reviewing compliance: criminal justice bodies

181 Clauses 6 and 7 use the definition "elected local policing body", which has the meaning given by section 101 of the Police Act 1996, namely; (a) a police and crime commissioner, and (b) the Mayor's Office for Policing and Crime. This is in contrast to the Clause 12 duty which applies to "local policing bodies"; the difference being that "elected local policing bodies" does not include the Common Council for the city of London Police area. This is because the guidance will set out that Clause 6 and 7 duties may be discharged within police and crime commissioner-chaired Local Criminal Justice Boards (LCJBs). The City of London police area does not have its own LCJB but is instead included within the London Criminal Justice Board. In addition, when criminal justice bodies break their data down to force area, London includes both City of London and the metropolitan police area. This approach has been confirmed as appropriate by the Association of Police and Crime Commissioners. For the purposes of these provisions, elected local policing bodies are referred to hereafter as PCCs.

182 Clause 6 places a duty on specified criminal justice bodies to take reasonable steps to promote awareness of the Victims' Code and to review their compliance with the Victims' Code.

183 Subsection (1)(a) specifies that the bodies must take reasonable steps to promote awareness of the victims' code among users of those services and other members of the public. Together this will ensure that those who are engaged with the criminal justice system, as well as those who do not report a crime, will be captured. The inclusion of 'reasonable' gives bodies the flexibility to tailor their approach in different circumstances. This allows for those working in the system to use their expertise to determine the most appropriate moment and method of sharing the Code.

184 Subsection (1)(b) specifies that the bodies must keep under review whether and how their services are provided in accordance with the Victims' Code. Criminal justice bodies must keep under review whether services are provided in accordance with the Victims' Code (i.e. reviewing whether the services are being provided at all), as well as how they are delivering them (i.e. what ways are the services provided).

185 Subsections (2)(a) – (c) place specific duties on criminal justice bodies in each police area to collect information and to share information about their compliance with the Victims' Code with each other and with the relevant PCC, and to jointly review the information shared with other criminal justice bodies and with the relevant PCC for that police area. Subsections (2) and (3) contain powers for the Secretary of State to prescribe in regulations the descriptions of information that

should be collected and/or shared for the overall purpose of keeping under review compliance with the Code, as well as to prescribe the manner in which information must be collected, shared, and reviewed. The intention is that the information to be collected and shared will include; data on criminal justice bodies' compliance with the delivery of responsible services under the Victims' Code and information relating to the experiences of service users. Subsections (4)(a) – (e) set out a non-exhaustive list of matters that the regulations may prescribe. This includes different information to be collected or shared by the different bodies and in relation to different services provided under the Code, information relating to the characteristics or experiences of users of those services that should be collected and shared by criminal justice bodies, the times at which or periods within which information must be collected, shared or reviewed, and the form that it should be collected and shared including as may be specified in a notice issued from time to time by the Secretary of State.

186 Subsection (5) places a duty on the Secretary of State to consult such persons as the Secretary of State considers appropriate before making regulations. This enables discretion for targeted consultation with those affected and with a specific interest, which it is anticipated may include, for example, criminal justice bodies subject to the duty.

187 Subsection (6) lists the bodies who are subject to both the duty to take reasonable steps to promote awareness of the Victims' Code and to review their compliance with the Victims' Code. In practice the specified criminal justice bodies will be the police, the Crown Prosecution Service, His Majesty's Court and Tribunal Service, His Majesty's Prison and Probation Service and its executive agencies (His Majesty's Prison Service, the Probation Service and the Youth Custody Service), and Youth Offending Teams.

188 Subsection (7) defines the term "prison" for the purposes of subsection (6)(d).

## Clause 7: Reviewing code compliance: elected local policing bodies

189 Subsection (1) places a duty on PCCs in each police area to keep under review whether and how the criminal justice bodies in their area are complying with the Victims' Code. Police and Crime Commissioners must keep under review whether criminal justice bodies in their area provide services in accordance with the Victims' Code (i.e. reviewing whether the services are being provided at all), as well as how they are delivering them (i.e. in what ways are the services provided).

190 Subsection (2)(a)-(c) places specific duties on PCCs to participate in the joint review of information provided to them by criminal justice bodies under clause 6(2)(b)(ii) and to provide the Secretary of State with such of that information as may be prescribed by the Secretary of State. Subsection (2)(c) sets out that PCCs must provide the Secretary of State with reports on matters in connection with the joint review, and the intention is to use the regulations to prescribe a list of set matters that the reports should include, such as key insights generated from the joint review and the sharing of best practices. Subsections (2) and (3) create powers for the Secretary of State to make regulations prescribing the information and reports to be shared with the Secretary of State. Subsection (4)(a) and (b) sets out a non-exhaustive list of matters that the regulations may include. This includes the times at which or periods within which information must be collected, shared, or reviewed and the form in which information or reports are to be provided by PCCs to the Secretary of State including as may be specified in a notice issued from time to time by the Secretary of State.

191 Subsection (5) places a duty on the Secretary of State to consult such persons as the Secretary of State considers appropriate before making regulations. This enables discretion for targeted consultation with those affected and with a specific interest, which it is anticipated may include, for example, PCCs subject to the duty.

## Clause 8: Reviewing compliance: British Transport Police

192 Subsection (2) places a duty on the Chief Constable of the British Transport Police Force (BTP) to take reasonable steps to promote awareness of the Victims' Code among users of relevant services and other members of the public. The inclusion of 'reasonable' gives bodies the flexibility to tailor their approach in different circumstances. This allows those working in the system to use their expertise to determine the most appropriate moment and method of sharing the Code.

193 Subsection (3) places a duty on the BTP and the British Transport Police Authority (BTPA) to keep under review BTP's compliance with the Victims' Code. As the BTP is a national force, it does not fall within PCC areas. The BTPA is therefore the appropriate alternative to the PCC for overseeing compliance with the Victims' Code.

194 Subsections (4)(a)-(c) place specific duties on the BTP to collect information about its compliance with the Victims' Code and to share information about its compliance with the Victims' Code with the BTPA. The BTP is also required to jointly review the information shared with the BTPA. Regulations will be used to prescribe the information to be collected and/or shared and the intention is that it will include; data relating to BTP's compliance with the delivery of responsible services under the Victims' Code and information relating to the experiences of service users.

195 Subsection (5)(a)-(c) specify that BTPA must participate in the review of the information shared by BTP and provide the Secretary of State with such of that information as may be prescribed in regulations together with reports on matters in connection with any reviews as may be prescribed in regulations.

196 Subsection (7)(a)-(d) sets out a non-exhaustive list of the matters that regulations made under this clause may include. This includes prescribing the information to be collected or shared including different information in relation to different services, how information may be collected from victims with protected characteristics and different experiences, the times at which or periods within which information must be collected, shared or reviewed or that a report must be provided by the BTPA to the Secretary of State, and the form that information should be collected and shared in and the form in which information or a report must be provided by the BTPA to the Secretary of State including as may be specified in a notice issued from time to time by the Secretary of State.

197 Subsection (8) places a duty on the Secretary of State to consult such persons as the Secretary of State considers appropriate before making regulations. This enables discretion for targeted consultation with those affected and with a specific interest, which it is anticipated may include, for example, BTP and BTPA.

## Clause 9: Code awareness and reviewing compliance: Ministry of Defence Police

198 Subsection (2) places a duty on the Chief Constable of the Ministry of Defence Police (MDP) to take reasonable steps to promote awareness of the victims' code among users of relevant services and other members of the public. The inclusion of 'reasonable' gives bodies the flexibility to tailor their approach in different circumstances. This allows for those working in the system to use their expertise to determine the most appropriate moment and method of sharing the Code.

199 Subsection (3) places a duty on the MDP and the Secretary of State (in practice, this would be the Secretary of State for Defence) to keep under review MDP's compliance with the Victims' Code. As the MDP is a national force, it does not fall within PCC areas. The Secretary of State for Defence is therefore the appropriate alternative to the PCC for overseeing compliance with the Victims' Code

200 Subsections (4) (a)-(c) specify that the Chief Constable of the MDP must collect information about their compliance with the Victims' Code and share information about their compliance with the

Victims' Code with the Secretary of State (in practice, this would be the Secretary of State for Defence). The MDP is also required to jointly review the information shared with the Secretary of State. Regulations will be used to prescribe the information to be collected and/or shared. The Government intends that this will include; data relating to MDP's compliance with the delivery of responsible services under the Victims' Code and information relating to the experiences of service users.

201 Subsection (5)(a)-(b) require the Secretary of State (in practice, this would be the Secretary of State for Defence) to participate in a review of the information shared by MDP with them, and to prepare reports on matters in connection with any review as may be prescribed in regulations. Regulations issued by the Secretary of State will prescribe the information to be collected and/or shared and what reports in connection with the joint review of information should be prepared, including the matters upon which reports they should be prepared. It is intended that the information to be collected and shared will include; data on their compliance with the delivery of responsible services under the Victims' Code and information relating to the experiences of service users.

202 A memorandum of understanding will be used to set out arrangements relating to the sharing of information, where it is anticipated that the MDP will review and share information with the Secretary of State for Defence who will then share information and reports with the Secretary of State for Justice.

203 Subsection (7)(a)-(d) sets out a non-exhaustive list of the matters that regulations made under this clause may include. This includes prescribing the information to be collected or shared including different information in relation to different services, how information may be collected from victims with protected characteristics and different experiences, the times at which or periods within which information must be collected, shared, or reviewed, and the form that it should be collected and shared in. It also includes the times at which or periods within which information must be collected, shared, or reviewed and the form in which information or a report is to be provided by the MDP to the Secretary of State including as may be specified in a notice issued from time to time by the Secretary of State.

204 Subsection (8) places a duty on the Secretary of State (in practice, this would be the Secretary of State for Justice) to consult such persons as the Secretary of State considers appropriate before making regulations. This enables discretion for targeted consultation with those affected and with a specific interest, which it is anticipated may include, for example the MDP.

## Clause 10: Publication of code compliance information

205 Subsection (1) requires the Secretary of State to publish such compliance information as the Secretary of State considers will enable members of the public to assess the code compliance of the specified criminal justice bodies which provides services in a police area, the BTP and the MDP. Subsection (2)(a) specifies that "compliance information" refers to the information provided to the Secretary of State by PCCs, the BTPA and the MDP under clauses 7(2)(a), 8(5)(a) and 9(4)(b). Subsection (2)(b) defines the term "code compliance".

206 Subsection (3) defines "relevant area" as that which relates to a police force area for criminal justice bodies, or England and Wales for the British Transport Police and the Ministry of Defence Police.

207 Subsection (4)(a) and (b) sets out the frequency at which compliance information must be published and states that the form and manner of such publication is a matter for the Secretary of State as they consider appropriate.

208 Subsection (5) provides that PCCs must take reasonable steps to make the public in their local police area aware of the information published by the Secretary of State under subsection (1)(a)

where that information relates to their own police force area. A similar duty is not required for the Secretary of State for Defence or BTPA as the data published by the Secretary of State for Justice will already present a national picture, ensuring parity between the non-territorial forces (with national jurisdiction) and territorial forces (whose data would be publicised by their PCC

### Clause 11: Guidance on code awareness and reviewing compliance

209 Subsection (1) requires the Secretary of State to issue guidance about how the criminal justice bodies, PCCs, the Chief Constable of the BTP the BTPA and the Chief Constable of the MDP are to discharge their duties under Clauses 6-10. Those bodies must have regard to the guidance.

210 Subsections (2) sets out a non-exhaustive list of matters for which the guidance may make provision to support the relevant bodies in discharging their functions under Clauses 6-10. The purpose of this guidance is to advise on issues such as: appropriate circumstances and methods for promoting awareness of the Victims' Code among service users and members of the public; advice on obtaining feedback from children and those with protected characteristics; likely processes for joint review of criminal justice body information, which is expected to take place within PCC-chaired Local Criminal Justice Boards, alongside parallel processes for the MDP and the BTP. It will also detail matters PCCs should consider when exercising their functions, referring to the interaction between their role and that of the Victims' Commissioner who has a general duty to keep under review the operation of the Code.

211 Subsection (3) requires that, before issuing any guidance, the Secretary of State must consult persons they consider appropriate. This enables discretion for targeted consultation with those affected and with a specific interest, which it is anticipated may include, for example relevant bodies who are subject to the duties under Clauses 6-10.

## Collaboration in exercise of victim support functions

### Clause 12: Duty to collaborate in exercise of victim support functions

212 Subsection (1) places a duty on a number of authorities (as defined in subsections (2) and (3)) working in a police area in England (the area for which a Police and Crime Commissioner is responsible as listed in schedule 1 to the Police Act 1996, as well as the metropolitan police district and the City of London police area) in the exercise of their functions in relation to relevant victim support services.

213 Subsection (1A) explains that, for the purposes of the subsection (1) duty, a relevant authority exercises a function in relation to relevant victim support services if it exercises the function in relation to the provision of such services, or the commissioning of such services provided by another person.

214 Subsections (2) and (3) explain that the relevant authorities are:

- local policing bodies (which are defined within Schedule 1 to the Interpretation Act 1978 by reference to section 101 of the Police Act 1996 as meaning Police and Crime Commissioners, the Mayor's Office for Policing and Crime in relation to the Metropolitan Police district and the Common Council in relation to the City of London police area);
- Integrated Care Boards (established in accordance with Chapter A3 of Part 2 of the National Health Service Act 2006); and
- tier one local authorities (as defined in the Domestic Abuse Act 2021 and meaning the county council or the district council where there is no county council, and the Greater

London Authority rather than individual London boroughs, and the Council of the Isles of Scilly).

215 "Relevant victim support services" are defined in subsections (4), (5), (6) and (7) and are intended to describe some of the existing functions undertaken by the relevant authorities in relation to the commissioning and provision of victim support services. This duty will not include new requirements to commission services. Subsection (4) explains that relevant victim support services as services that are provided to support victims of domestic abuse, criminal conduct of a sexual nature or serious violence. Victim support services can include advice, recovery and support services, which could be medical, therapeutic, practical and/or emotional. This duty is intended to require the relevant authorities to target this collaborative effort towards victims of these categories of crime, which are particularly traumatic offences with a high number of victims each year.

216 Criminal conduct of a sexual nature refers to conduct that amounts to a criminal offence, and where a person has suffered harm as a result of this conduct, as set out in clause 1.

217 Subsection (5) defines domestic abuse and accommodation-based support for these purposes as having the same meaning as in sections 1 and 57 of the Domestic Abuse Act 2021 respectively.

218 Subsections (6) and (7) clarify the meaning of violence and serious violence. Violence for these purposes includes violence against property and threats of violence; and the decision as to whether violence is serious should take into account the maximum penalty for the offence and victim impact. The decision as to whether criminal conduct constitutes serious violence should be made by the relevant authorities. Terrorism within the meaning of the Terrorism Act 2000 is not included, because victims of terrorism are supported by the Home Office CONTEST strategy and funding commitments.

219 Subsection (8) is intended to ensure that the relevant authorities consider whether sharing or processing information may assist them in the effective discharge of functions under this section. As clause 26 makes clear, this does not require information to be disclosed if the disclosure would contravene the data protection legislation, but it clarifies the lawful basis for disclosure under that legislation.

220 The exercise of the duty will be organised by reference to police area because it is expected that as part of their role in commissioning wider victims' services, PCCs may convene the collaborative activity in local areas and bring local partners together. The relevant authorities are those responsible for functions falling all or part within a police area. The relevant police area in each instance will be that attaching to the local policing body as defined in section 101(1) of the Police Act 1996, namely that listed in schedule 1 of the Police Act 1996), the Metropolitan Police district and the City of London police area. For integrated care boards and local authorities, these could fall fully or partly within the police area meaning at the local level that the same commissioning team may be required to liaise with one or more PCC as appropriate in relation to the effective discharge of this duty.

## Clause 13: Strategy for collaboration in exercise of victim support functions

221 Subsection (1) provides that the duty in clause 12 includes a requirement that the relevant authorities in a police area in England work together to prepare and implement a joint local strategy to set out the aims and approach for commissioning relevant services, as well as setting out how local areas are meeting the duty requirements.

222 Subsection (2) requires the relevant authorities for a police area to make reasonable efforts to obtain the views of victims in their police area (meaning directly from victims themselves or via someone representing their views, such as an advocate) when preparing the strategy. They are

also required to consult persons appearing to represent those providing victim support services; and such other persons as they consider appropriate (for example, the educational authority for the area or independent experts like the Victims' Commissioner).

223 Subsection (3) requires the relevant authorities to also (a) assess the needs of victims in the police area for relevant victim support services; (b) assess whether; and how, those needs are being met by the services which are available (whether or not provided by the relevant authorities), and (c) have regard to those assessments when preparing their strategy. When making an assessment under subsection (3), the relevant authorities must have regard to the particular needs of victims who are children or who have protected characteristics.

224 Subsection (4) puts a requirement on the relevant authorities to publish the strategy, keep the strategy under review and revise it from time to time.

225 Subsection (5) ensures that subsections (1) to (4) also apply to the preparation of a revised strategy.

### Clause 14: Guidance on collaboration in exercise of victim support functions

226 Clause 14 places the Secretary of State under a duty to issue guidance to the relevant authorities on how to carry out their obligations under clauses 12 and 13 and places the relevant authorities under a duty to have regard to that guidance. The purpose of this guidance is to support the relevant authorities in discharging their functions under these clauses and it will advise on issues such as local partnership structures that may work for collaboration and how joint activity may be convened in practice (such as through a convening role by PCCs), alongside information to support strategy production. Subsection (2) sets out that before issuing any guidance, the Secretary of State must consult persons they consider appropriate, which is expected to include interested stakeholders and practitioners to accurately reflect what further explanation and practical guidance may be beneficial.

## Independent domestic violence and sexual violence advisors

### Clause 15: Guidance about independent domestic violence and sexual violence advisors

227 Subsection (1) creates a duty on the Secretary of State to issue guidance about Independent Domestic Violence Advisors (IDVAs) and Independent Sexual Violence Advisors (ISVAs). As set out in subsection (4), this guidance will cover the key functions of these roles alongside recommended minimum expectations and best practice, including training and qualifications for advisors. Guidance will also detail how these roles support victims with specific needs, including a focus on supporting those with protected characteristics. It will also set out best practice for collaboration between ISVAs and IDVAs and those who have functions relating to victims, or any other aspect of the criminal justice system in order to effectively work together to meet the needs of victims.

228 Subsection (2) defines "IDVA" and "ISVA" for the purposes of this clause. "Independent Domestic Violence Advisor" is defined as a person who provides a relevant service to individuals who are victims by virtue of criminal conduct which constitutes domestic abuse. "Independent Sexual Violence Advisor" is defined as a person who provides a relevant service to individuals who are victims of criminal conduct which constitutes conduct of a sexual nature. These definitions are deliberately broad in view of the wide range of support provided by these advisors. The definitions describe (but do not limit) the scope of services which might be provided, but do not prescribe eligibility for advisor services.

229 Subsection (5) provides that IDVAs and ISVAs must have regard to the guidance when exercising their functions.

230 Subsection (6) creates a duty on any other person who has a function which is related to victims or any aspect of the criminal justice system to have regard to the guidance unless they are acting in a judicial capacity. This duty will have effect where such a function is being exercised, and the guidance is relevant to the exercise of that function.

## Restricting parental responsibility where one parent kills the other

### Clause 16: Restricting parental responsibility where one parent kills the other

231 Clause 16 amends the Children Act 1989 to place a requirement on the Crown Court to make a prohibited steps order (PSO) when the offender is sentenced in cases where one parent has been convicted of the manslaughter or murder of the other parent. The clause also places a duty on the local authority to make an application to the High Court or the family court to review the PSO.

232 Subsection (1) makes provision for the Bill to amend the Children Act 1989.

233 Subsection (2) amends section 8 of the Children Act 1989 to provide that the term 'family proceedings' (as it is defined in the Children Act 1989) does not include the proceedings when in the Crown Court covered under the new section 10A.

234 Subsection (3) inserts new Sections 10A and 10B into the Children Act 1989.

235 New Section 10A in the Children Act 1989 (inserted by subsection (3)) covers the requirement for the Crown Court to make a PSO:

a. Subsection (1) of new section 10A in the Children Act 1989 clarifies that the section applies where a child has two parents, at least one of whom has parental responsibility (PR) for them and that a parent who holds PR has been convicted of the murder or, in certain circumstances, the manslaughter of the other parent.

b. Subsection (2) sets out the circumstances where manslaughter convictions are within scope of the measure. Namely where a parent who holds PR has been convicted of the manslaughter due to reasons of loss of control (as provided for by Section 45 of the Coroners and Justice Act 2009) or diminished responsibility (as covered by Section 2 of the Homicide Act 1957).

c. Subsection (3) confirms that in cases where the provision applies the Crown Court is required to make a PSO when sentencing the offender.

d. Subsection (4) sets out the terms the PSO must contain to prevent the offender from taking any step in the exercise of their PR without the consent of the High Court or the family court and that order will remain in place until it is varied or discharged by either the High Court or the family court.

e. Subsection (5) confirms that a PSO should not be made by the Crown Court where there is already a PSO in place that already provides that no steps could be taken in exercise of a parent's PR or if, in cases where the offender has been convicted of manslaughter, it would not be in the interests of justice to do so.

f. Subsection (6) makes clear that where the Crown Court is undertaking the duty placed on it by Section 10A and in the context of the Crown Court's discretion in certain manslaughter cases, it should not apply the following sections of the Children Act 1989:

    i. Section 1, which covers the elements the court must include in its consideration of a child's welfare, such as the presumption that a child's welfare will be furthered by the involvement of each parent in their lives.

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

iii. Section 11, which covers a series of provisions relating to timetabling, orders and the provision of welfare reports.

g. Subsection (7) clarifies that where a PSO has been made it will not automatically stop where the affected parent is acquitted on appeal. Instead, provision is made in new section 10B for the family court to review any order in such circumstances.

h. Subsection (8) provides that a PSO made by the Crown Court is to be treated as an order of the family court for the purposes of section 31F(6) of the Matrimonial and Family Proceedings Act 1984 (which gives the family court the power to vary, suspend, rescind or revive any order it makes).

i. Subsection (9) provides that the Crown Court cannot hear applications for the enforcement of the PSO, these will instead be heard by the family court.

236 The new Section 10B in the Children Act 1989 (inserted by subsection (3)) confirms details of the duty that will be placed on the local authority:

a. Subsection (1) sets out it applies when a PSO made under new section 10A.

b. Subsection (2) confirms that where a PSO is made under the new section 10A the relevant local authority at the time the PSO is made must make an application for the family court to review the PSO. The references to 'the court' here is as provided for by Section 92(7) of the Children Act 1989 and means the High Court or the family court.

c. Subsection (3) provides the circumstances in which subsection (4) applies. Subsection (3) confirms that subsection (4) applies the where the Crown Court has made a PSO under the new Section 10A and the court has finished its deliberations and made a final order in relation to the PSO made by the Crown Court following the local authority's application under subsection (2). Subsection (3) also provides that subsection (4) applies when the parent has been acquitted on appeal of the murder or manslaughter which resulted in the making of the PSO by the Crown Court. The meaning of relevant local authority is clarified by Subsection (7).

d. Subsection (4) confirms that the relevant local authority at the time of the verdict of the parent's acquittal is entered must make an application for the family court to review the PSO.

e. Subsection (5) makes clear that the relevant local authority must make an application to the court to review the order as soon as would be reasonably practicable and in all cases within 14 days after the day on which either the order is made by the Crown Court, or, where the affected parent is acquitted on appeal, the verdict of acquittal was entered.

f. Subsection (6) provides that the Secretary of State has the power to change the length of the 14-day time limit by secondary legislation.

g. Subsection (7) defines the 'relevant local authority' as the local authority within whose area the child(ren) involved are ordinarily resident or the local authority within whose area the child(ren) is present. If there is no local authority which fits this description, no duty arises. Nothing in this subsection affects the law applicable to whether the court has jurisdiction to make any orders as a result of the review.

237 Subsection (4) of this Clause removes the following restrictions on making a PSO, as set out in the Children Act 1989:

a. That a PSO cannot be made in situations where the child(ren) in question is in the care of a local authority;

b. Where the PSO would end after the child(ren) involved has reached the age of 16; or

c. Where the child(ren) in question is over the age of 16.

238 Subsection (5) confirms that when a local authority has the power (under Section 33(3)(b) of the Children Act 1989) to decide how an offender can use their PR, the local authority may only use this power in order to stop them from taking steps that are not already prohibited by the PSO made under new section 10A.

239 Subsection 6(a) amends subsection 91(2) of the Children Act 1989 to provide that if a care order is made after the making of a PSO under new section 10A that PSO will not be discharged as would be the case for other section 8 orders.

240 Subsection 6(b) inserts new provision into section 91 of the Children Act 1989 that, where a PSO is already in place and a further PSO is made that specifies the affected parent may not exercise their parental responsibility, the first PSO will be discharged, save to the extent the first PSO also prohibits other actions not covered by the new PSO, for example in relation to other persons or children.

241 Subsection (7) amends the provisions of the Children Act 1989 in relation to the powers to make regulations under the Act consequential on the new Section 10B(6).

242 Subsection (8) provides that a PSO made by the Crown Court under section 10A does not fall within the definition of a 'sentence' for the purposes of section 50 of the Criminal Appeals Act 1968 and cannot therefore be appealed by the offender through the Crown Court. The question of whether the PSO should remain in place, be varied or discharged will be considered by the court following the application by the relevant local authority (any decision made by the family court would be subject to appeal through the usual routes).

## Domestic Abuse Related Death Reviews

### Clause 17: Establishment and conduct of domestic abuse related death reviews

243 This clause inserts new section 8A of the Domestic Violence, Crime and Victims Act 2004 ("the 2004 Act").

244 New section 8A provides for Domestic Abuse Related Death Reviews to replace Domestic Homicide Reviews under section 9 of the 2004 Act in England and Wales. Reviews can be commissioned following a homicide, a victim taking their own life after experiencing domestic abuse or in circumstances that are unexplained but give rise to concern. The intention behind providing for Domestic Abuse Related Death Reviews is to better reflect the range of deaths that are within scope of a review.

245 The Secretary of State may direct a review to take place where a death of a person has, or appears to have, resulted from domestic abuse towards the person within the meaning of the Domestic Abuse Act 2021. The definition of domestic abuse set out in the Domestic Abuse Act 2021 includes controlling or coercive behaviour, emotional abuse and economic abuse. It also clarifies that domestic abuse happens between individuals who are 'personally connected' via intimate or family relationships. The intention behind providing for a Domestic Abuse Related Death Review to be considered when a death has or appears to have resulted from domestic abuse as defined in the Domestic Abuse Act 2021 is to ensure Domestic Abuse Related Death Reviews contribute to

better understanding of domestic abuse, as well as encourage consistency in decision making for reviews when domestic abuse has been identified.

246 The clause makes consequential provision to ensure that, in relation to Northern Ireland, domestic homicide reviews will continue to take place under section 9 of the 2004 Act.

## Victims' Commissioner

### Clause 18: Commissioner for Victims and Witnesses

247 Clause 18 makes the following amendments to the Domestic Violence, Crime and Victims Act 2004 (the 2004 Act).

248 Subsection (2)(a) amends section 49(2)(c) of the 2004 Act to provide that the Victims' Commissioner can make recommendations at any point in time and is not limited to just making recommendations in the annual report. Subsection (2)(b) inserts a provision which specifies that the Victims' Commissioner can include within their reports recommendations to any authority within the Victims' Commissioner's remit and subsection (2)(c) inserts a requirement for the Victims' Commissioner to lay their annual report before Parliament.

249 Subsection (3) inserts a requirement for criminal justice agencies or Government departments who are named directly in the Victim's Commissioner's reports to respond to any recommendations made to them. The relevant person(s) must prepare comments on any recommendations made in the report, with an explanation of:

a. the action that has been, or is proposed to be taken in response to the recommendation, or;

b. why action has not been, or is not proposed to be, taken in response to the recommendations.

250 The inserted wording provides that the relevant person(s) is the authority the recommendations are made about, or in the event the authority is a Government department with a responsible Minister, that Minister. It also specifies that the response must be published in a manner considered appropriate by the relevant person(s), within 56 days of the Victim's Commissioner's report being published and that anything published must be sent to the Victim's Commissioner and, where the authority is not a Government department in the charge of a Minister, the Secretary of State.

251 Subsection (4) ensures that Schedule 9 to the 2004 Act includes the authorities that may be responsible for responding as per subsection (3) above.

## Inspections by criminal justice inspectorates

### Clause 19: His Majesty's Chief Inspector of Prisons

252 Subsection (1) amends the Prisons Act 1952 with subsection (2) providing for the Commissioner for Victims and Witnesses to be added to the mandatory list of consultees on the inspectorates' work programmes and frameworks.

253 Subsection (3) adds provisions to the Prison Act 1952 (which includes provision for His Majesty's Chief Inspector of Prisons) to provide for the Secretary of State, Lord Chancellor, and the Attorney General to jointly require that the criminal justice inspectorates' joint inspection programme includes provision for inspections, at specified times, of specified matters relating to the experiences and treatment of victims. It also sets out that "specified" means specified in the joint direction, and "victim" has the meaning given in clause 1 of the Bill.

### Clause 20: His Majesty's Chief Inspector of Constabulary

254 Subsection (1) amends the Police Act 1996 (further provision about inspectors of constabulary) with subsection (2) providing for the Commissioner for Victims and Witnesses to be added to the mandatory list of consultees on the inspectorates' work programmes and frameworks.

255 Subsection (3) adds provisions to the Police Act 1996 (which includes provision for His Majesty's Chief Inspector of Prisons) to provide for the Secretary of State, Lord Chancellor, and the Attorney General to jointly require that the criminal justice inspectorates' joint inspection programme includes provision for inspections, at specified times, of specified matters relating to the experiences and treatment of victims. It also sets out that "specified" means specified in the joint direction, and "victim" has the meaning given in clause 1 of the Bill.

### Clause 21: His Majesty's Chief Inspector of the Crown Prosecution Service

256 Subsection (1) amends the Crown Prosecution Service Inspectorate Act 2000 (further provision about Chief Inspector) with subsection (2) providing for the Commissioner for Victims and Witnesses to be added to the mandatory list of consultees on the inspectorates' work programmes and frameworks.

257 Subsection (3) adds provisions to the Crown Prosecution Service Inspectorate Act 2000 (which includes provision for His Majesty's Chief Inspector of Prisons) to provide for the Secretary of State, Lord Chancellor, and the Attorney General to jointly require that the criminal justice inspectorates' joint inspection programme includes provision for inspections, at specified times, of specified matters relating to the experiences and treatment of victims. It also sets out that "specified" means specified in the joint direction, and "victim" has the meaning given in clause 1 of the Bill.

### Clause 22: His Majesty's Chief Inspector of Probation for England and Wales

258 Subsection (1) amends the Criminal Justice and Court Services Act 2000 (further provision about the inspectorate) with subsection (2) providing for the Commissioner for Victims and Witnesses to be added to the mandatory list of consultees on the inspectorates' work programmes and frameworks.

259 Subsection (3) adds provisions to the Criminal Justice and Court Services Act 2000 (which includes provision for His Majesty's Chief Inspector of Prisons) to provide for the Secretary of State, Lord Chancellor, and the Attorney General to jointly require that the criminal justice inspectorates' joint inspection programme includes provision for inspections, at specified times, of specified matters relating to the experiences and treatment of victims. It also sets out that "specified" means specified in the joint direction, and "victim" has the meaning given in clause 1 of the Bill.

## Parliamentary Commissioner for Administration

### Clause 23: Parliamentary Commissioner for Administration

260 Subsections (2) to (5) amend section 5 of the Parliamentary Commissioner for Administration Act 1967 through the following actions.

261 Subsection (3) provides for complainants who claim to have sustained injustice due to the maladministration of a Government department or other authority to which the Act applies, to go directly to the Commissioner, rather than going through a member of the House of Commons, where the complaint relates to their experience as a victim. Subsection (3) also provides for all other complaints to be referred to a member of the House of Commons in the usual way.

262 Subsection (4) provides for complainants who claim that a duty under the Victims' Code has been breached or a person has failed to comply with a duty to victims under sections 35-44 of the

Domestic Violence, Crime and Victims Act 2004, to go directly to the Commissioner, rather than going through a member of the House of Commons, where the complaint relates to their experience as a victim. Again, subsection (4) also provides for all other complaints to be referred to a member of the House of Commons in the usual way.

263 Subsection (5) provides for "victim" in the amended provisions to have the meaning given by clause 1 of this Bill.

264 Subsection (6) to (10) amends section 6 of the Parliamentary Commissioner for Administration Act 1967 through the following actions.

265 Subsection (7) inserts a new subsection which provides that a complaint may be made directly by a person authorised to act on behalf of the aggrieved person, regardless of whether it is made via a member of the House of Commons or directly by the complainant themselves.

266 Subsection (8) provides for complaints to be made by a personal representative or a member of the complainant's family or another individual suitable to represent them, where a person is unable to authorise another person to act on their behalf. Subsection (9) adds a new subsection that provides that these are the only circumstances in which a complaint can be entertained when not made by the person aggrieved.

267 Subsection (10) removes another reference to a complaint being made via a member of the House of Commons. The existing requirement that a complaint must be made within 12 months from the first notice of the matters alleged in the complaint remains, except that now the complaint can be made directly to the Commissioner in some circumstances.

268 Subsections (11) to (14) amends section 10 of the Parliamentary Commissioner for Administration Act 1967 through the following actions.

269 Subsection (12) and (13) adjust where the report or statement on the complaint should be sent. This is to the person who made the complaint, but the amended provision also allows for the report or statement to also be sent to a member of the House of Commons with the consent of the person who makes the complaint.

270 Lastly, subsection (14) adjusts the existing provision which states that a report or statement by the Commissioner shall be absolutely privileged, to reflect the changes made in subsections (12) and (13).

## Information relating to victims

### Clause 24: Information relating to victims

271 Clause 24 amends the Police, Crime, Sentencing and Courts Act 2022 ("the 2022 Act"), to insert new sections 44A to 44E into that Act, relating to victim third party material requests.

272 New section 44A provides that a "victim information request" (a request for third party material relating to a victim, or person who is at risk of being a victim) may only be made when it is necessary and proportionate to the prevention, detection, investigation, or prosecution of a crime, and in pursuit of a reasonable line of enquiry. Additionally, the authorised persons must have a reason to believe that the information being requested is held by the third party. In making or deciding whether to make such a request the authorised person must have regard to the Code of Practice issued by the Secretary of State. It applies to specified law enforcement bodies who undertake and support investigations and protect vulnerable victims.

273 New section 44B requires the authorised person to provide the victims with a written notice that details what information is being sought, why it is being sought, and how the information will be dealt with once obtained when appropriate. The notice must be given on or before the date the

request is made or, if that is not reasonably practicable, as soon as practicable after that date. Where the victim is a child or an adult without capacity, the notice must be given to their parent or guardian, or person representing the authority or organisation whose care they are in. If no such person is available, notice is to be given to any adult the authorised person considers appropriate.

274 New section 44C requires that the request to the third party to be made in writing, and specify what information is being sought, why it is being sought, and how the information will be dealt with once it has been obtained. The authorised person is not required to give full information about the crime, as this is often highly sensitive, but instead must provide a more general overview to the third party they are requesting material from.

275 New section 44D requires the Secretary of State to prepare a Code of Practice which sets out the duties and best practice for authorised persons when making a victim information request. Prior to issuing the Code, the Secretary of State must consult relevant bodies such as the Information Commissioner, the Commissioner for Victims and Witnesses and the Domestic Abuse Commissioner.

276 New section 44E defines "authorised person" and includes the police, British Transport Police, National Crime Agency and the Ministry of Defence Police. The Secretary of State may amend the list of authorised persons, by adding or removing persons or modifying the references to the persons (for example if their name changes), by regulations.

### Clause 25: Information relating to victims: service police etc

277 Clause 25 amends the Police, Crime, Sentencing and Courts Act 2022 ("the 2022 Act"), to insert new section 44F. Section 44F applies the provisions set out in 44A – 44E to the service police (the Royal Navy Police, Royal Military Police, and Royal Air Force Police) and the Service Complaints Commissioner, with limited modifications, as if they were authorised persons i.e. they must comply with the same obligations.

## Data Protection

### Clause 26: Data protection

278 Clause 26 makes it clear that nothing in this Part of the Bill requires or authorises the processing of information if that processing would contravene the data protection legislation (where "data protection legislation" has the same meaning as in the Data Protection Act 2018).

## Consequential provision for Part 1

### Clause 27: Consequential provision

279 This clause repeals Chapter 1 of Part 3 of the Domestic Violence, Crime and Victims Act 2004 and makes various consequential amendments.

# Part 2: Victims of Major Incidents

## Meaning of "major incident" etc.

### Clause 28: Meaning of "major incident" etc.

280 This clause defines key terms for this Part of the Bill including "major incident", "harm", "victims" and "advocate".

281 Subsection (2)(c) requires the Secretary of State to declare a major incident in writing. This is to avoid any doubt that a major incident has been declared for the purposes of this Part of the Act.

### Clause 29 Appointment of a standing advocate

282 This clause requires the Secretary of State to appoint a standing advocate, which is a permanent position.

283 The standing advocate has particular functions, which are set out in subsection 2. These functions include advising the Secretary of State on how victims of major incidents and their treatment by public authorities in response to major incidents can be furthered; advising other advocates as to the exercise of their functions by, for example, developing best practice; and producing an annual report under section 30 to explain to the Secretary of State how they have discharged their functions.

284 The standing advocate could advise the Secretary of State under subsection 2(a)) on the most appropriate form of government review following a major incident so that lessons can be learned. This review could include a statutory or non-statutory inquiry.

285 Subsection (3) makes clear that the standing advocate may take steps to facilitate the exercise of their functions or the functions of another advocate; or they make take steps which are incidental or conducive to their functions or the functions of another advocate. In practice, this could involve the standing advocate taking steps to upskill, build relationships and prepare ahead of a major incident.

286 The Secretary of State must be satisfied that they are appointing a qualified person to be the standing advocate under subsection (4).

287 When advising the Secretary of State on the interests of victims of major incidents and their treatment by public authorities in response to major incidents under subsection 2(a), the standing advocate must have regard to the definition of public authority in subsection (5), which does not include the Security Service, the Secret Intelligence Service or the Government Communications Headquarters.

## Appointment of advocates

### Clause 30: Appointment of advocates in respect of major incidents

288 This clause provides for the appointment of an individual to act as an advocate for victims of a major incident. A reference to an advocate includes the standing advocate only if they have been appointed in respect of that incident under subsection (1), which is provided for in Clause 28 (6) .

289 The Secretary of State may appoint the standing advocate under this section to act as an individual advocate for victims of a major incident. If the Secretary of State wishes to appoint a different person, then they must be satisfied that the person is both qualified and appropriate to appoint in respect of the incident. Subsections 5-6 provide further guidance on these criteria.

### Clause 31: Terms of appointment

290 This clause provides for the terms of appointment of an advocate, which includes both the standing advocate appointed under Clause 29 and an individual advocate appointed in respect of a major incident under section 25(1).

291 The clause also provides for other matters relating to the terms of appointment including termination, pay and secretarial support under subsections (2)-(4).

292 An advocate is not to be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown under subsection (5).

### Clause 32: Appointment of more than one advocate in respect of major incidents

293 This clause allows the Secretary of State to appoint more than one advocate in respect of the same major incident. This could be necessary for larger scale events with high numbers of victims to provide resilience, or where specific expertise is required.

294 If the Secretary of State appoints more than one advocate, the lead advocate must be appointed under must under subsection (2). An advocate must have regard to any directions given by the lead advocate as to how they are to exercise their functions in respect of the incident.

## Functions and powers of advocates in respect of major incidents

### Clause 33: Functions of advocates in respect of major incidents

295 This clause governs the functions of an advocate appointed in respect of a major incident under section 25(1).

296 Subsection 3 makes clear that an advocate can provide support to victims through a representative, subject to the conditions set out in the Act, namely that the representative is over 18, and would not, in representing victims, carry on a legal activity.

### Clause 34: Role of advocates under Part 1 of the Coroners and Justice Act 2009

297 Clause 34 amends the Coroners and Justice Act 2009 to include an advocate as an interested person under section 47(2) of the Coroners and Justice Act 2009.

## Functions and powers of advocates: general

### Clause 35: Reports to the Secretary of State

298 This clause specifies the situations in which a report will be produced by an advocate. The Secretary of State can give notice requiring an advocate to report; or an advocate can report to the Secretary of State at their own discretion. If more than one advocate has been appointed in respect of the same major incident then only the lead advocate can report in relation to the incident.

### Clause 36: Publication of reports

299 This clause clarifies how reports made by an advocate under Clause 35 are published; what information can be omitted from these reports; and the obligation on the Secretary of State to lay reports before Parliament.

300 The Secretary of State must publish any annual reports made by the standing advocate and any reports which they commission from the advocate under clause 35(1). There are, however, some reports which could fall outside of the obligation to publish and these are discretionary reports made by an advocate under clause 35(4A). These reports will only be published if the advocate requests in writing that the report should be published.

301 The Secretary of State can publish reports in a manner as they see fit under subsection (2), which could, for example, be on a Government website. The Secretary of State may omit material from a report before publishing under the criteria set out in subsection (3).

### Clause 37: Information sharing and data protection

302 Clause 37 provides for the sharing of information, by an advocate; and for the sharing of information with an advocate.

303 An advocate may share information received in the exercise of their functions with specified persons under subsection (1). A person exercising functions of a public nature may share information with the advocate, as they consider appropriate, for the purposes of the advocate exercising their functions under subsection (2).

304 The clause does not compel the sharing of information by, or with, an advocate.

305 Subsection (6) makes clear that the data protection legislation applies to the sharing of information under this clause. The definitions in subsection (7) only apply to this clause of the Bill.

## Guidance for advocates

### Clause 38: Guidance for advocates

306 Clause 38 provides for the Secretary of State to issue guidance to advocates appointed in respect of a major incident under clause 30(1), which an advocate must have regard to when exercising their functions.

307 Subsection (2) makes clear that the guidance cannot be directed at any specific advocate or related to a specific major incident. In practice, this guidance must be general and could include considerations around identifying victims and proportionality in supporting multiple close family members of the deceased.

## Consequential amendments

### Clause 39: Part 2: Consequential amendments

308 This clause provides for the consequential amendments related to Part 2 of the Bill to insert an advocate appointed by the Secretary of State into the following pieces of legislation:

a. Schedule 1 to the Public Records Act 1958. This will place obligations on the advocates to properly protect and preserve records;

b. Schedule 2 to the Parliamentary Commissioner Act 1967. This brings the advocates under the remit of the Commissioner and allows for complaints to be made and investigated, adding a layer of accountability;

c. Schedule 1 to the House of Commons Disqualification Act 1975. This prohibits any sitting MPs from also being an advocate;

d. Schedule 1 to the Freedom of Information Act 2000. This will bring the advocates under the remit of freedom of information requests and the information commissioner; and

e. The public sector equality duty in section 149 of the Equality Act 2010 will apply to an advocate. The duty applies to public bodies listed in Schedule 19 to the Act, which is amended to include an advocate.

# Part 3: Infected Blood Compensation Body

### Clause 40: Compensation for victims of the infected blood scandal

309 This clause requires the Secretary of State to establish a body to administer a compensation scheme to victims of the infected blood scandal, within three months of passing the Act. For the purposes of the Act, a victim of the infected blood scandal is defined with reference to the Infected Blood Inquiry's ("the Inquiry") Second Interim Report, as laid in Parliament on 19 April 2023, which made recommendations as to who should be eligible for admittance to such a scheme.

310 The clause sets out administrative requirements for the compensation scheme body, extending to the need to have regard to efficiency, speed and accessibility for applicants, the requirement for an independent appeals mechanism, and the involvement of those eligible for compensation by way of their inclusion in an advisory board. The body is to be chaired by a High Court or Court of Session Judge, acting as the sole decision maker.

# Part 4: Prisoners

## Public protection decisions

### Clause 41: Public protection decisions: life prisoners

311 Clause 41 amends Chapter 2 of Part 2 of the 1997 Act to clarify the meaning and application of the existing statutory release test in the case of a life sentenced prisoner.

312 Subsection (1) of section 28ZA states that this new section applies when a decision-maker (defined in subsection (11) as the Board, the Upper Tribunal, or the High Court)) making a public protection decision about a life prisoner. Subsection (10) sets out that the test should be applied:

a. when the Parole Board is considering a life sentence offender for first release;

b. when the Parole Board is considering re-releasing a life sentence after they have been recalled on licence; and

c. where the Upper Tribunal or the High Court has been referred a case by the Parole Board at the direction of the Secretary of State and is exercising the new power to refuse release.

313 Subsection (2) of new section 28ZA sets out that a public protection decision is a decision as to whether it is no longer necessary for the protection of the public that a prisoner remains confined. This is the current wording of the public protection test for all life-sentenced offenders releases, no matter if first-instance or on a recall.

314 Subsection (3) sets out the new, more specific release test - that, when making a public protection decision, the decision maker must be satisfied that there would be no more than a minimal risk that the prisoner would commit a further offence that would cause serious harm if they were to be released, in order to release the offender.

315 Subsection (4) relates to the offences that are presumed to cause serious harm. Schedule 18B, which is inserted into the 2003 Act by subsection (9) of clause 42, provides for offences which are considered under the criminal justice regime to be serious in nature, for which offenders must or may currently receive serious or restrictive sentencing and release measures. This list turns a decision-maker's mind to the types of offences which may be sufficient to meet the threshold of serious harm in the release test, should the decision-maker consider that the offender poses a risk of committing that offence. This deeming provision allows the decision-maker to take the circumstance of the case into account when deciding if commission of the offence would truly cause serious harm. It also does not preclude the decision-maker from considering other offences which may cause serious harm, which are not contained in the list, when determining if the offender should be released or not. New section 237A(13), and clause 42(8), enables this list to be amended by affirmative order.

316 Subsection (5) sets out specific criteria that must be taken into account by the decision-maker when assessing the prisoner for release. These provisions do not change in practice how the Board takes public protection decisions, or the Board's discretion as to weight to give to each consideration. The list set out express considerations to underpin the question of whether the prisoner meets the threshold in subsection (3), for clarity. Subsection (6) ensures that the decision-maker must in particular have regard for the protection of any victim of the prisoner (restricted to the victim or victims of the offence to which the relevant sentence relates). Subsection (9) enables the decision-maker to take account of matters in addition to those covered in section 28ZA.

317 Subsection (12) is a minor technical provision that glosses new section 28ZA(1) for the release test for recalled life offenders. The test has the same meaning but is cast slightly differently. A 'gloss' is a non-textual modification that changes the effect of a provision, without changing the main text.

318 Clause 41(3) and (4) ensures that the new meaning and application applying to public protection decisions is referenced and applies in sections 28A and 28B of the 1997 Act, which govern the release of offenders who have committed murder, manslaughter or indecent image offences and have not provided information about their victims.

## Clause 42: Public protection decisions: fixed-term prisoners

319 Clause 42 provides for the same changes as Clause 41 for fixed term (determinate) sentenced offenders released pursuant to Chapter 6 of Part 12 of the 2003 Act by inserting new sections 237A and 237B into the 2003 Act and making consequential changes. The operation of this clause is the same as clause 41, adjusted to the different provisions.

320 New section 237A will apply to all, either in whole or in part, to all public protection decisions taken under the 2003 Act (with the exception of the test as to whether or not a prisoner is suitable for automatic release, under section 255A(4)), as set out in subsection (10) and new section 237B:

i. 244ZC(4) - where the Secretary of State has referred a standard determinate sentenced offender determined to be dangerous to the Parole Board;

ii. 244ZC(5)(b) - 244ZC offenders, subject to subsequent parole reviews;

iii. 244A(4)(b) - in relation to offenders serving Sentences for Offenders of Particular Concern;

iv. 246A(6)(b) - in relation to offenders serving Extended Determinate Sentences;

v. 247A(5)(b) - in relation to terrorist prisoners serving determinate sentences;

vi. 255B(4A) - For Parole Board decisions on re-release of offenders who have been recalled to prison following release on licence:

vii. 255C(4A) - for Parole Board decisions on re-release of offenders who have been recalled to prison and are unsuitable for automatic release;

viii. 256A(4) - further annual reviews of offenders who are refused re-release after recall;

ix. 256AZBC(1) - Upper Tribunal or High Court release decision for determinate offenders referred by the Secretary of State;

x. Para 6(2) of Schedule 20B – discretionary conditional release prisoners sentenced under the Criminal Justice Act 1991;

xi. Para 15(4) of Schedule 20B – old extended sentences imposed under section 226 or 227;

xii. Para 25(3) of Schedule 20B – prisoners serving sentences imposed under the Criminal Justice Act 1967;

xiii. Para 28(3) of Schedule 20B - prisoners with an extended sentence certificate serving a sentence imposed under the Criminal Justice Act 1967.

321 Subsection (12) adds a gloss to subsection (2) so that the new public protection test applies to Parole Board decisions in sections 255B(4A), 255C(4A) or 256A(4) of the 2003 Act, which govern the re-release of recalled fixed-term offenders and subsequent annual reviews.

322 Clause 42(3) and (4) ensures that the new meaning and application applying to public protection decisions is referenced and applies in sections 246B and 246C of the 2003 Act, which govern the

release of extended determinate sentenced offenders who have committed manslaughter or indecent image offences and have not provided information about their victims.

323 Clauses 42(5) and (6) apply the new public protection threshold in cases where the Secretary of State is deciding whether or not to discretionarily release different categories of recalled determinate offenders (known as executive re-release). The new public protection test applies, but not the list of mandatory considerations, as these are specific executive decisions where different considerations may apply.

324 Clause 42(7) amends section 256AZB, which is the power to change the test for re-release following recall by secondary legislation. It makes provision to clarify that the existing consequential power can be used to amend and modify the release test to be applied by the relevant court in making release decisions following referrals.

325 Clause 42(10) to (12) provide for the new public protection application and meaning to apply to the transitional cases where prisoners have committed manslaughter or indecent image offences, but have not provided information about their victims, in Schedule 20B of the 2003 Act.

### Clause 43: Amendment of power to change test for release on licence of certain prisoners

326 Clause 42 amends section 128 of LASPO which allows for all parole release test provisions in Chapter 6 of Part 12 of the 2003 Act to be altered by secondary legislation. Clause 42(2) adds the new statutory release test provisions into section 128(3) so they may be amended by affirmative order. Clause 42(3) makes provision to clarify that the existing consequential power in section 128 can be used to amend and modify the application of the release test to be applied by the relevant court in taking release decisions following referrals.

## Referral of release decisions to Secretary of State

### Clause 444: Referral of release decisions: life prisoners

327 Clause 44 amends the Crime (Sentences) Act 1997 to create a 'top-tier' cohort of life-sentenced offenders, which the Secretary of State can direct the Parole Board to refer to the Upper Tribunal or the High Court to determine release.

328 Clause 44 inserts new sections 32ZAA, 32ZAB and 32ZAC into Part 2 of the 1997 Act.

329 New section 32ZAA applies where a life sentenced prisoner is having a parole review under section 28 or 32 of the 1997 Act, relating to the sentence imposed for a 'top tier' offence defined in new section 32ZAB. These offences are murder, rape, serious terrorism or terrorism connected offences, and causing or allowing the death of a child. They include the Northern Irish and Scottish equivalents of the offences, to capture offenders who are convicted in the devolved administrations but transferred to England and Wales to serve their sentence. Equivalent service offences are also included. Some of the 'top tier' offences do not carry a maximum penalty of life; however, owing to the historic availability of the IPP sentence for all these offences, they are included so as to ensure IPPs who have committed these offences who are being considered for release are treated consistently with those serving life sentences.

330 Subsections (1) and (5) provide that where the Parole Board decides to direct the release of a prisoner in the top tier cohort, the Secretary of State may then direct the Parole Board to refer the prisoner's case to the 'relevant court' for review where the release of the prisoner would be likely to undermine public confidence in the parole system and where the Secretary of State considers that, if the case were referred, the relevant court may not conclude that the release test has been met. Subsections (5A) and (5B) provide that for cases involving material damaging to national security, the relevant court is the High Court. In all other cases, the relevant court is the Upper Tribunal.

331 Subsection (6) provides that the Secretary of State must notify the prisoner of the direction and the reasons for giving it, and that the prisoner will not be released pending review by the relevant court.

332 Subsections (7) and (8) clarify that this section applies to all relevant prisoners, including those currently serving sentences, but not including. those who have already had a release decision from the Board.

333 New section 32ZAC provides for release decisions to be made by the relevant court after referral. If the relevant court is satisfied that the public protection test is met (using the same criteria as the Parole Board has used under new section 28ZA), they must order the Secretary of State to release the prisoner on licence pursuant to the Board's release direction, either subject to the same or different conditions as those imposed by the Board. If they are not so satisfied, they must quash the Parole Board's direction under 32ZAC(1)(b) and the prisoner will remain confined.

334 New section 32ZAC(3) means that the date of an order quashing the Board's direction is to be treated as the date on which the Board disposed of the case, for the purposes of calculating the prisoner's next parole referral.

### Clause 45: Referral of release decisions: fixed-term prisoners

335 Clause 45 provides for the same changes as Clause 44, for fixed term (determinate) sentenced offenders released pursuant to Chapter 6 of Part 12 of the 2003 Act by inserting new sections 256AZBA, 256AZBB and 256AZBC into Chapter 6 of Part 12 of the 2003 Act, and making consequential changes. The operation of this clause is the same as clause 44, adjusted to the different provisions.

336 New section 256AZBB, which sets out the top tier offences, does not include murder. This is because murder carries mandatory life sentence, so offenders sentenced for this offence will never be due for release under the 2003 Act. All other aspects of section 256AZBB correspond with provision in new section 32ZAB for life sentenced offenders. New section 256AZBC corresponds with new section 32ZAC for the purposes of the relevant court's decision.

337 Subsection (5) of section 256AZBC glosses the public protection test set out in section 256AZBC(3) for recalled fixed-term offenders who make representations on their recall and are subsequently referred to the Board by the Secretary of State under section 255B(4A) of the 2003 Act.

338 Clause 45(2) clarifies that, where the release decision is that of the relevant court rather than the Parole Board, the requirement for the Secretary of State to release as soon as reasonably practicable provided for in section 256AZC applies.

## Licence conditions on release following referral

### Clause 46: Licence conditions of life prisoners released following referral

339 When the relevant court releases a prisoner, it will be responsible for setting their licence conditions (either in line with the Board's conditions, or differently if it thinks fit) under new section 32ZAC(2). Where release is directed, new section 31(3A) of the 1997 Act requires the Secretary of State to include the licence conditions directed by the relevant court on first release and enables them to subsequently vary and cancel those conditions as part of the normal process of managing an offender's licence as their circumstances change.

### Clause 47: Licence conditions of fixed-term prisoners released following referral

340 Clause 47 amends section 250 of the 2003 Act, which prescribes responsibility for setting and varying licence conditions for fixed-term prisoners, on initial release from prison and subsequently in the community. The changes ensure that, on first release following a direction to

release by the relevant court, the Secretary of State must include only those bespoke conditions directed by the relevant court in the offender's licence under new section 256AZBC(2), consistent with the existing provisions on Board release, but then may subsequently vary and cancel those conditions as part of the offender's management in the community.

## Imprisonment or detention for public protection: termination of licences

### Clause 48: Imprisonment or detention for public protection: termination of licences

341 Clause 48 amends sections 31A and 32 of the Crime (Sentences) Act 1997 regarding the termination of licence and consequently the ending of the sentence for offenders subject to an imprisonment for public protection (IPP) sentence.

342 Subsection (2)(a) updates the language on the current subsection (2) of section 31A to modernise the drafting using "must" instead of "shall" which provides more certainty. Subsection (2) as it stands requires the Secretary of State to give effect to a Parole Board direction that a licence ceases to have effect.

343 Subsection (2)(b) amends the subsection 31A(3) which is the trigger for the Secretary of State to refer prisoners to the Parole Board for consideration of licence termination at the end of the qualifying period. Subsection (2)(b) removes the requirement for the Secretary of State to refer an IPP offender to the Parole Board for an annual review of their licence termination.

344 Subsection (2)(c) amends the test to be applied by the Parole Board when considering whether to terminate an IPP offender's licence. The test includes a clear presumption that the Parole Board must direct the Secretary of State to make an order that the licence is to cease to have effect unless it is satisfied that it is necessary for the protection of the public that the licence should remain in force.

345 Subsection (2)(d) amends the way in which offenders who have been recalled to prison, and have met the qualifying period, are to have their licence terminations considered. This subsection omits previous subsections (4A) to (4C) which dealt with termination of IPP licences for offenders serving a recall and inserts subsections (4D) to (4H)

a. Subsection (4D) provides that the Secretary of State cannot refer a case to the Parole Board for consideration of licence termination at the end of the qualifying period if the prisoner is in prison serving a recall.
b. Subsections (4E) and (4F) provide that the Parole Board will consider whether to release a recalled IPP offender unconditionally (without a licence) only when it has first determined that a recalled IPP offender can be released. A recalled prisoner's licence termination is therefore contingent on the Parole Board first deciding that the prisoner is also safe for release from prison. Subsection (4F) also ensures that the Parole Board consider the termination of the licence under the clear presumptive test.
c. Subsection (4G) makes consequential amendment to section 28 and 32 of the 1997 Act to ensure that where a licence is terminated by the Parole Board that any subsequent release under those sections are then unconditional (without licence).
d. Subsection (4H) provides that the Secretary of State must order that a licence is to cease to have effect if the qualifying period has expired and the prisoner's licence has remained in place for a continuous period of two years (i.e. without the prisoner having been recalled to prison in that time) ending on the commencement of this provision or any continuous two year period afterwards. If an IPP offender has been recalled, the two year period will reset on their next release from prison by the Parole Board.

346 Subsection 2(e) changes the qualifying period for an offender who has been released on licence to have their licence considered for termination by the Parole Board from ten years after first release to three years. This qualifying period counts from the first release from prison and does not reset if an IPP offender is recalled to prison.

347 Subsection (2)(f) gives the Secretary of State the power to amend the qualifying period by regulations subject to affirmative parliamentary procedure.

348 Subsection (3) disapplies section 32 of the 1997 Act for IPP offenders in respect of whom the Secretary of State is required to make an order terminating their licence under section 31A so that it is clear they cannot be recalled for breach of licence after the requirement to terminate but before the order is made.

## Application of Convention rights

### Clause 49: Section 3 of the Human Rights Act 1998: life prisoners

### Clause 50: Section 3 of the Human Rights Act 1998: fixed term prisoners

### Clause 51: Section 3 of the Human Rights Act 1998: powers to change release test

349 Clauses 49, 50 and 51disapply section 3 of the Human Rights Act 1998 (HRA) in relation to Chapter 2 of Part 2 of the 1997 Act, Chapter 6 of Part 12 of the 2003 Act, section 128 of LASPO, and all secondary legislation made under these provisions ('the release legislation'). These provisions span the legislative framework in England and Wales relating to release, licences, supervision, and recall of indeterminate and determinate sentenced offenders.

350 Section 3 of the HRA requires primary and secondary legislation to be read and given effect to in a way that is compatible with the Convention rights, "so far as it is possible to do so".

351 When operated by the courts, section 3 requires them to go further than they usually would when interpreting legislation. This has required, at times, the courts to depart from the unambiguous meaning of the legislation. It has also required the courts to adopt interpretations of legislation which depart from the intention of Parliament when that legislation was passed – see, eg, *Ghaidan v Godin-Mendoza* [2004] UKHL 30, para 31).

352 Further, the requirement in section 3 is not merely for courts. Anyone, including public authorities, applying legislation has a duty under section 3 to interpret it in a compatible way.

353 By removing this duty in respect of the release legislation, it ensures that, should the courts – or others – find these provisions incompatible, they will apply the section as it is intended to be applied, and not use section 3 to alter the interpretation. In such cases, declarations of incompatibility under section 4 HRA will be available.

### Clause 52: Application of certain convention rights in prisoner release cases

354 Clause 52 sets out the approach courts should take when considering a decision that has been made concerning the release of a prisoner and where that decision has been challenged on human rights grounds.

355 When considering such a challenge, which could arise via a judicial review, a habeas corpus application, a private law damages claim or any other legal challenge where a Court is required to consider the Convention rights of a person in relation to a release decision, the court must give the greatest possible weight to the importance of reducing the risk to the public from those persons who have been convicted of a criminal offence. Requiring the courts to give the greatest possible weight to this factor reinforces the precautionary approach and means that public protection will be given appropriate consideration in any balancing exercise.

## The Parole Board

### Clause 53: Parole Board rules

356 Clause 53(2) amends the power in section 239 of the 2003 Act to make procedural Rules about how the Board conducts proceedings (the Parole Board Rules) to add the power to prescribe via the Rules that parole cases to be dealt with by Parole Board members with particular skills or experience.

### Clause 54: Parole Board membership

357 Clause 54(1) through (4) amend paragraph 2 of Schedule 19 of the 2003 Act which deals with membership of the Parole Board. It amends the membership to provide for the position of Vice Chair and a member with law enforcement experience (defined as the "prevention, detection or investigation of offences"). Clause 54 (5) sets out new terms of appointment for the chair and vice-chair of the Parole Board to be inserted into paragraph 2. The Chair and Vice Chair must be appointed for an initial term of five years and may be re-appointed for one further five-year term. Either postholder may resign from their role by providing notice in writing to the Secretary of State. New subparagraphs (2D) and (2E) prevent both the Chair and Vice chair from re-appointment to that same role, other than if the Secretary of State decides to re-appoint them following their first term in office.

358 New subparagraph (2C) enables the Secretary of State to remove the Chair from their role, if necessary to do so, in order to maintain public confidence in the Parole Board.

359 New paragraph 2A(1) sets out the new functions of the Chair, which are focused on general leadership, ensuring a strategy is in place, public awareness, administrative efficiency and effectiveness.

360 Paragraph 2A(3) and (5) prohibits the Chair from any involvement in individual parole cases or functions of the Board relating to those cases, by providing the Chair must not play any part in dealing with individual parole cases, including attending or playing any part in proceedings of the Board in relation to those cases, or otherwise seek to influence recommendations of Board members in those cases. This would include all any matters which interfere with the judicial decision-making of individual members, including determining which Board members participate in those proceedings. The preclusion of the new role of the Chair from involvement in any functions which could be perceived to relate to the discharge of judicial functions by the Parole Board is necessary to permit the power of dismissal to operate compatibly with Article 5(4) of the Convention.

361 Paragraph 2A(4) enables the Board to delegate any of the chairman's functions to another member or an employee of the Board.

362 Clause 54(8) consequentially amends paragraph 4 of Schedule 19 to provide that arrangements relating to meetings of the Board are now subject to the restrictions in new paragraph 2A.

363 Clause 54(10) provides that the new measures in clause 54 will not apply to the post-holder of the role of Chair on introduction of the Bill.

## Whole life prisoners prohibited from forming a marriage or civil partnership

### Clause 55: Whole life prisoners prohibited from forming a marriage

364 Clause 54(1) amends the Marriage Act 1949 by inserting a new section to prohibit whole life prisoners from marrying unless they have permission from the Secretary of State.

365 New section 2A(1) sets out which prisoners may not marry, with more detail as to the meaning and interpretation of specific terms provided in paragraph 2A (5) and (6). To be in scope an individual must fulfil two criteria.

366 Firstly, they must be serving a life sentence in a prison or other place of detention (such as a Young Offender Institution or secure hospital). This would exclude prisoners released on licence on compassionate grounds under section 30(1) of the Crime (Sentences) Act 1997.

367 Secondly, they must be subject to either:

a. A court order that they should not be eligible for release by the Parole Board under the usual release arrangements for life sentence prisoners; or

b. A mandatory life sentence received before December 2003, having been notified in writing before that date that the Secretary of State did not intend that they should ever be released on licence; and the High Court must have not since ordered that the early release provisions should instead apply.

368 New subsections 2A(2) and (3) set out a process for exemptions to be granted by written permission from the Secretary of State. The Secretary of State may only give permission for a whole life prisoner to marry if satisfied that this is justified by exceptional circumstances

369 New subsection 2A(4) establishes that if a whole life prisoner does manage to marry without written permission from the Secretary of State, their marriage will not be legally valid.

### Clause 56: Whole life prisoners prohibited from a forming a civil partnership

370 This clause amends the Civil Partnership Act 2004 to prohibit whole life prisoners from forming civil partnerships unless they have permission from the Secretary of State.

371 Subsection (2) adds whole life prisoners to the list of people not eligible to register as civil partners.

372 The other provisions of this clause replicate provisions set out in clause 55 as to the exemptions process and prisoners in scope.

## Part 4: General

### Clause 57: Financial provision

373 This clause creates a financial provision to allow any expenditure incurred or attributable once the measures in this Bill become an Act is to be paid out of money provided by Parliament.

### Clause 58: Power to make a consequential provision

374 This creates a power for the Secretary of State to make any consequential amendments that may be required to existing law to ensure consistency in the statute book and operability of these provisions contained in clauses 16, 55 and 56 of this Bill.

### Clause 59: Regulations

375 Clause 59 sets out that regulations made under the powers in the Bill will be made by statutory instrument and may make different provision for different purposes. This may include provisions that are supplementary, incidental, saving or transitional.

376 Clause 58(1)(a) provides that regulations under the Act may make different provision for different purposes.

377 Subsection (3) provides for the affirmative parliamentary procedure to apply to regulations made under clause 58, if those regulations amend, repeal, or revoke primary legislation.

378 Subsections (4) and (5) provide for the negative parliamentary procedure to apply to any other regulations made under powers in the Bill, excluding regulations provided for in clause 61 regarding commencement and transitional provisions for the Bill, which are not subject to parliamentary procedure.

379 This clause does not apply to commencement regulations but clause 60(4) makes equivalent provision for commencement regulations under that clause.

## Clause 60: Extent

380 Clause 60 sets out that the measures in the Bill extend to England and Wales with the following exceptions:

a. Clause 17 (Domestic abuse related death reviews) which extends to England and Wales and Northern Ireland;

b. Clauses 23 and 27(3) – which amend the Parliamentary Commissioner Act 1967 and have the same extent as that Act;

c. Clause 25 (information relating to victims: service police etc.) extends to England and Wales, Scotland and Northern Ireland.

d. Clause 39(1) – (4) (Part 2: consequential amendments) extend to England and Wales, Scotland and Northern Ireland. Subsection (5) of that clause extends to England and Wales and Scotland.

## Clause 61: Commencement

381 Clause 61(1) and (2) provide that all of the provisions in the Bill will come into force on such day as the Secretary of State appoints via regulations, apart from Part 4 of the Bill which will come into force on the day on which the Bill becomes an Act of Parliament.

382 Subsection (3) provides for the Secretary of State to make transitional or saving provision by way of regulations. Regulations for this purpose may make different provision for different purposes and will be made by statutory instrument.

## Clause 62: Short title

383 This clause provides that the short title of the Bill will be the Victims and Prisoners Act 2023, once the Bill becomes an Act.

# Commencement

385 The provisions in this Bill will come into force by regulations made on a day appointed by the Secretary of State, apart from Part 4 of the Bill which will come into force on the day on which the Act is passed.

# Financial implications of the Bill

386 Impact Assessments have been prepared for each part of the Bill and cover the implications on bodies and organisations which derive from this Bill. The main public sector financial implications fall to:

a. Police and Crime Commissioners – with the cost to monitor compliance with the Victims' Code and give regard to feedback estimated to be between £0 and £3.5m per year, and the cost to collaborate when commissioning support services for victims estimated to be £0.17m to £0.18m per year, with a best estimate of £0.17m.

b. Criminal justice inspectorates – with the cost of a joint thematic inspection estimated as £1m, currently assumed that these inspections will take place around every 3 years.

c. Local authorities - with the cost to collaborate when commissioning support services for victims estimated to be £0.29m to £0.34m per year, with a best estimate of £0.31m.

d. Integrated Care Boards – with the cost to collaborate when commissioning support services for victims estimated to be £0.0m to £0.19m per year, with a best estimate of £0.09m.

387 The other options in part 1 of this Bill (placing the Victims' Code into legislation, amending the role of the Victims' Commissioner, removing the 'MP filter', and requiring guidance to be issued about ISVAs and IDVAs) are currently estimated to be of no cost.

388 Part 2 of the Bill establishes advocates for victims of major incidents. This includes a secretariat to support the advocates. £2.5m has been allocated to the Ministry of Justice for the first three years of its operation to cover the cost of the standing advocate, the secretariat, recruitment of any additional advocates, training for the advocates and the secretariat, IT equipment, any guidance that needs to be produced in respect to the work of the advocates and any communication campaigns that are required to inform the public and public authorities about the establishment of the advocates and the support they will provide. If a major incident were to occur, as defined in Part 2 of the Victims and Prisoner Bill 2024 there will be increased expenditure to pay for the work of any advocates that are appointed, this is difficult to estimate as this expenditure will be dependent on the nature of the incident.

389 All of these figures are estimated based on a number of assumptions about implementation which are subject to change. Further details of the costs and benefits of individual provisions are set out in the Impact Assessment published alongside the Bill.

390 A money resolution is required for this Bill. A money resolution is required where a Bill authorises new charges on the public revenue (broadly speaking, new public expenditure). For part 1 of this Bill the potential increases in public expenditure is mainly attributable to new or expanded functions conferred on public authorities. This includes expenditure on Police and Crime Commissioners, local authorities, and Integrated Care Boards under Clauses 13-15 in relation to the requirement to collaborate when commissioning support services for victims. Further expenditure may be required for Police and Crime Commissioners under Clause 8 and their need to monitor Victims' Code compliance and give regard to victim feedback. Clauses 18-21, requiring joint thematic inspections on victims' issues give rise for potential increases in the

sums provided to the criminal justice inspectorates. Clauses 26 and 32 will lead to expenditure to cover resources for the advocates, to support the appointment of advocates and any guidance that needs to be produced in respect to the work of the advocates. Expenditure is also likely needed for communication to inform the public and public authorities about the establishment of the advocates. If a major incident were to occur, as defined in Part 2 of the Victims and Prisoner Bill 2024, Clauses 26, 28, 29, 30 and 31 will lead to increased expenditure to pay for the work of any advocates that are appointed. Expenditure is estimated to vary dependent on the nature of the incident.

# Parliamentary approval for financial costs or for charges imposed

391 A money resolution is required for the Bill. A money resolution is required where a bill authorises new charges on the public revenue - broadly speaking, new public expenditure. This resolution was agreed to by the House of Commons on 15 May 2023 alongside the carryover motion for the Bill.

392 Costs incurred by certain public bodies in complying with duties under Part 1 of the Bill are likely to require increased central Government support for those bodies under existing legislation. The Secretary of State may also incur costs directly in issuing and maintaining a code of practice under clause 2 of the Bill.

393 The Secretary of State will incur expenditure in connection with the appointment of advocates for victims of major incidents under Part 2 of the Bill, including making payments to advocates, providing administrative support to advocates and preparing guidance.

394 The reforms to the parole system in Part 3 of the Bill are expected to result in some prisoners spending longer in prison and less time under licence supervision in the community. Public expenditure will therefore be incurred in providing the necessary prison capacity. The Secretary of State will incur costs in administering prisoner release decisions referred from the Parole Board.

395 A ways and means resolution is not required for the Bill. A ways and means resolution is required where a bill authorises new charges on the people - broadly speaking, new taxation or other similar charges. Nothing in the Bill authorises such charges.

# Compatibility with the European Convention on Human Rights

396 The Government does not consider that the Bill raises any significant issues in relation to the European Convention on Human Rights (ECHR) and Lord Bellamy KC has made a statement under section 19(1)(a) of the Human Rights Act 1998 that the Bill is compatible with the ECHR.

# Duty under Section 20 of the Environment 2021

397 The Government's view is that the Bill does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

# Annex A – Territorial extent and application in the United Kingdom

| Provision | England | Wales | | Scotland | | Northern Ireland | |
|---|---|---|---|---|---|---|---|
| | Extends to E & W and applies to England? | Extends to E & W and applies to Wales? | Legislative Consent Motion process engaged? | Extends and applies to Scotland? | Legislative Consent Motion process engaged? | Extends and applies to Northern Ireland? | Legislative Consent Motion process engaged? |
| **Part 1 – Victims of Criminal Conduct** | | | | | | | |
| Clause 1 | Yes | Yes | No | No | No | No | No |
| Clause 2 | Yes | Yes | No | No | No | No | No |
| Clause 3 | Yes | Yes | No | No | No | No | No |
| Clause 4 | Yes | Yes | No | No | No | No | No |
| Clause 5 | Yes | Yes | No | No | No | No | No |
| Clause 6 | Yes | Yes | No | No | No | No | No |
| Clause 7 | Yes | Yes | No | No | No | No | No |
| Clause 8 | Yes | Yes | No | No | No | No | No |
| Clause 9 | Yes | Yes | No | No | No | No | No |
| Clause 10 | Yes | Yes | No | No | No | No | No |
| Clause 11 | Yes | Yes | No | No | No | No | No |
| Clause 12 | Yes | No | No | No | No | No | No |
| Clause 13 | Yes | No | No | No | No | No | No |
| Clause 14 | Yes | No | No | No | No | No | No |
| Clause 15 | Yes | Yes | Yes | No | No | No | No |
| Clause 16 | Yes | Yes | No | No | No | No | No |
| Clause 17 | Yes | Yes | No | No | No | Yes | No |
| Clause 18 | Yes | Yes | No | No | No | No | No |
| Clause 19 | Yes | Yes | No | No | No | No | No |
| Clause 20 | Yes | Yes | No | No | No | No | No |
| Clause 21 | Yes | Yes | No | No | No | No | No |
| Clause 22 | Yes | Yes | No | No | No | No | No |
| Clause 23 | Yes | Yes | No | Yes | No | Yes | No |
| Clause 24 | Yes | Yes | No | No | No | No | No |
| Clause 25 | Yes | Yes | No | Yes | No | Yes | No |
| Clause 26 | Yes | Yes | No | No | No | No | No |
| Clause 27 | Yes | Yes | No | Yes | No | Yes | No |
| **Part 2 Victims of** | | | | | | | |

| Provision | England | Wales | | Scotland | | Northern Ireland | |
|---|---|---|---|---|---|---|---|
| | Extends to E & W and applies to England? | Extends to E & W and applies to Wales? | Legislative Consent Motion process engaged? | Extends and applies to Scotland? | Legislative Consent Motion process engaged? | Extends and applies to Northern Ireland? | Legislative Consent Motion process engaged? |
| **Major Incidents** | | | | | | | |
| Clause 28 | Yes | Yes | Yes | No | No | No | No |
| Clause 29 | Yes | Yes | Yes | No | No | No | No |
| Clause 30 | Yes | Yes | Yes | No | No | No | No |
| Clause 31 | Yes | Yes | Yes | No | No | No | No |
| Clause 32 | Yes | Yes | Yes | No | No | No | No |
| Clause 33 | Yes | Yes | Yes | No | No | No | No |
| Clause 34 | Yes | Yes | Yes | No | No | No | No |
| Clause 35 | Yes | Yes | Yes | No | No | No | No |
| Clause 36 | Yes | Yes | Yes | No | No | No | No |
| Clause 37 | Yes | Yes | Yes | No | No | No | No |
| Clause 38 | Yes | Yes | Yes | No | No | No | No |
| Clause 39 | Yes | Yes | Yes | No | No | No | No |
| **Part 3 – Infected Blood Compensation Body** | | | | | | | |
| Clause 40 | Yes | Yes | No | No | No | No | No |
| **Part 4 – Prisoners** | | | | | | | |
| Clause 41 | Yes | Yes | No | No | No | No | No |
| Clause 42 | Yes | Yes | No | No | No | No | No |
| Clause 43 | Yes | Yes | No | No | No | No | No |
| Clause 44 | Yes | Yes | No | No | No | No | No |
| Clause 45 | Yes | Yes | No | No | No | No | No |
| Clause 46 | Yes | Yes | No | No | No | No | No |
| Clause 47 | Yes | Yes | No | No | No | No | No |
| Clause 48 | Yes | Yes | No | No | No | No | No |
| Clause 49 | Yes | Yes | No | No | No | No | No |
| Clause 50 | Yes | Yes | No | No | No | No | No |
| Clause 51 | Yes | Yes | No | No | No | No | No |
| Clause 52 | Yes | Yes | No | No | No | No | No |
| Clause 53 | Yes | Yes | No | No | No | No | No |
| Clause 54 | Yes | Yes | No | No | No | No | No |

| Provision | England | Wales | | Scotland | | Northern Ireland | |
|---|---|---|---|---|---|---|---|
| | **Extends to E & W and applies to England?** | **Extends to E & W and applies to Wales?** | **Legislative Consent Motion process engaged?** | **Extends and applies to Scotland?** | **Legislative Consent Motion process engaged?** | **Extends and applies to Northern Ireland?** | **Legislative Consent Motion process engaged?** |
| Clause 55 | Yes | Yes | No | No | No | No | No |
| Clause 56 | Yes | Yes | No | No | No | No | No |
| **Part 5** | | | | | | | |
| Clause 57 | Yes | Yes | No | Yes | No | Yes | No |
| Clause 58 | Yes | Yes | No | Yes | No | Yes | No |
| Clause 59 | Yes | Yes | No | Yes | No | Yes | No |
| Clause 60 | Yes | Yes | No | Yes | No | Yes | No |
| Clause 61 | Yes | Yes | No | Yes | No | Yes | No |
| Clause 62 | Yes | Yes | No | Yes | No | Yes | No |

# VICTIMS AND PRISONERS BILL

# EXPLANATORY NOTES

These Explanatory Notes relate to the Victims and Prisoners Bill as brought from the House of Commons on 6 December 2023 (HL Bill 31).

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Ordered by the House of Lords to be printed, 6 December 2023

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