

Title: Victims and Courts Bill: Victims Measures IA No: MoJ019/2025 RPC Reference No: N/A Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)			
	Date: 27 October 2025			
	Stage: House of Lords Introduction			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
	Contact for enquiries: Rachel.bennion@justice.gov.uk			
Summary: Intervention and Options				RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option (in 2024/25 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£64.3m	N/A	N/A	Not a regulatory provision

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

More needs doing to ensure that the criminal justice system (CJS) better meets the needs of victims. In particular, we need to ensure that victims and the public have confidence in the CJS, that victims receive relevant information whilst their offender is serving their sentence, and that victims and the public are confident that appropriate steps are being taken to protect the most vulnerable from sex offenders. In response, in the Victims and Courts (VAC) Bill, the Government is introducing a package of legislative measures to increase the Victims' Commissioner's powers, update the routes to provide victims with information about their offenders' release, restrict the exercise of parental responsibility for individuals convicted of serious child sex offences and men who father children through rape and void non-disclosure agreements (NDAs) to the extent that they seek to prevent victims of crime from disclosing information about relevant criminal conduct. Government intervention, via primary legislation, is necessary to implement these measures.

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

The legislative measures in the Bill will deliver the following key policy objectives:

- To protect children from ongoing psychological or emotional harm resulting from the exercise of parental responsibility by a person who is sentenced for four or more years imprisonment for a serious child sex offence or convicted of rape where the child was conceived as a result of that offence; and to protect families from the need to initiate complex and emotionally burdensome family court cases.
- Victims should have confidence that they will get the support and communication they need from the system.
- Non-disclosure agreements (NDAs) or confidentiality clauses should not be able to prevent victims of crime from disclosing information about relevant criminal conduct.

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

Two Options are considered in this Impact Assessment

- Option 0: Do nothing in legislation.**
- Option 1: Enact all the measures in the Victims and Courts Bill.**
 - Automatic restriction of the exercise of parental responsibility for those sentenced to four or more years imprisonment for serious child sex offences;
 - Automatic restriction on the exercise of parental responsibility where a child is conceived as a result of rape.
 - Updating routes to provide victims with information about their offenders' release
 - Extending the powers of the Victims' Commissioner
 - Void NDA or confidentiality clauses to the extent that they seek to prevent victims of crime from disclosing information about relevant criminal conduct

Will the policy be reviewed? The legislation will be reviewed in line with post-legislative scrutiny procedures.

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

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

Signed by the responsible

Bill Minister: Alex Davies-Jones

Date: 27 October 2025

Summary: Analysis & Evidence

Option 1

Description: All victims measures are introduced in the Victims and Courts Bill.

FULL ECONOMIC ASSESSMENT

Price Base Year: 24/25	PV Base Year: 25/26	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -20.9	High: -146.4	Best Estimate: -64.3

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	-	2.5	24.9
High	-		17.1	174.6
Best Estimate	-		7.7	76.6

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

The automatic restriction on the exercise of parental responsibility (measures 1 and 2) will cost £26.6-8.5m per year, with a best estimate £19.9m per year. These costs will be borne by HM Courts and Tribunals Service (HMCTS), the Legal Aid Agency, local authorities and the Children and Family Court Advisory and Support service (Cafcass) and Cafcass Cymru. Bringing victims currently served by different post-conviction communication schemes into the Victim Contact Scheme and providing a new route for other victims to request information via a dedicated helpline will cost HM Prison and Probation Service (HMPPS) £0.2m per year. Extending the powers of the Victims' Commissioner is estimated to cost an average of £0.1m per year.

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

Under measures 1 and 2, there will be costs to offenders, or their family on their behalf, and the non-offending parent/carer if the offender chooses to apply for the family court to consider the circumstances of their case. If they are ineligible for legal aid they could represent themselves or seek legal representation which would incur a financial cost to them. There may be emotional costs to direct and indirect victim children of offenders who have their parental responsibility restricted. There may be a negligible cost associated with responses to the Victims' Commissioner's reasonable requests for cooperation. There may be some small costs to business from reviewing and revising NDAs.

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

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

It has not been possible to identify any monetised benefits.

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

Children of a child-sex offender and their non-offending parent/carer will benefit as they will no longer be caused harm by their offending parent exercising their parental responsibility. Automatic restriction of parental responsibility may benefit HMCTS as some cases may be diverted away from the family court. Children who are conceived as a result of rape will benefit as they will no longer be at risk of harm by their offending parent exercising parental responsibility for them. Bringing victims currently served by different post-conviction communication schemes into the Victim Contact Scheme and providing a route for other victims to request release information about their offender, via a victim helpline, could increase trust and confidence in the criminal justice system. Empowering the Victims' Commissioner to better hold the system to account may have the benefit of increasing system performance based on their engagement and recommendations. Voiding NDAs in relation to disclosures made by victims of crime about relevant criminal conduct should bring substantial wellbeing benefits to these victims and potentially reduce the volume of offending behaviour.

Key assumptions/sensitivities/risks	Discount rate	3.5
Measures with monetised costs have low and high scenarios modelled to reflect the uncertainty in the estimated costs and sensitivities regarding assumptions made.		

BUSINESS ASSESSMENT (Option 1)

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

A. Background

1. This Impact Assessment (IA) assesses the following victim's legislative measures, with the aim of including these measures in the Victims and Courts Bill.

Table 1: Victims measures included in the Victims and Courts Bill

Policy Measure	Policy Description
1. Automatic restriction of the exercise of parental responsibility in cases of serious child sexual abuse	This measure will restrict the exercise of parental responsibility for a person who has been convicted of a serious sexual offence against a child and sentenced for 4 or more years immediate custody. It will ensure that individuals convicted of such serious sexual offences cannot take any step to exercise their parental responsibility for any of their children unless the order is varied or discharged by the family court.
2. Automatic restriction of the exercise of parental responsibility where a child is born of rape	This measure will restrict the exercise of parental responsibility for a man who has been sentenced for rape and the Crown Court is satisfied a child was conceived as a result of that offence. It will ensure that individuals who father a child through rape cannot take any step to exercise their parental responsibility, if acquired, over that child unless the order is varied or discharged by the family court. In cases where the above does not apply, the Crown Court will be under a duty to refer cases to the local authority if: a. The offender is convicted of rape b. The offender has parental responsibility for the child c. The Crown Court considers that the child <u>may</u> have been conceived from that rape. In these cases, subject to the mother's consent, the local authority must apply to the family court to consider whether an order ought to be made in the best interests of the child.
3. Updating routes to provide victims with information about their offenders' release by: a) Bringing existing operational schemes into the Victim Contact Scheme. b) Providing a new route for other victims to request information via a dedicated victim helpline. c) Including a new definition of a victim for the purposes of the Victim Contact Scheme and helpline	This measure will update the current legislative framework underpinning the current Victim Contact Scheme to: a. Bring existing operational schemes into the Victim Contact Scheme, meaning victims currently served by different operational schemes, such as the Victim Notification Scheme, will be eligible for the Victim Contact Scheme. b. Give other victims a clear route to request information about their offender's release, which will be provided via a victim helpline to victims of specified offences, victims of offences committed as part of perpetrating domestic abuse, or victims otherwise considered to be at risk of physical or psychological harm without information relating to their offender's release, where appropriate. c. Include a new definition of 'victim' for the purposes of the scheme, which specifies that this includes those directly subjected to criminal conduct, bereaved family members, children who have witnessed domestic abuse (considered victims in their own right as defined by the Domestic Abuse Act 2021), and persons born as a result of rape.
4. Extending the powers of the Victims' Commissioner: a) Victims' Commissioner to independently report on Victims' Code b) Duty to cooperate on antisocial behaviour	This measure will amend legislative restrictions to enable the Victims' Commissioner to exercise their functions in relation to individual cases that raise issues of public policy relevance. It will also place new duties on: (a) the Victims' Commissioner, to produce an annual report on compliance with the Victims' Code; and (b) on local authorities and social housing providers

c) Victims' Commissioner can exercise their functions in individual cases which raise public policy issues	engaged with victims of antisocial behaviour, to cooperate with the Victims' Commissioner.
5. Non-disclosure agreements (voiding NDAs in relation to disclosures of information made by victims of crime about relevant criminal conduct)	This measure will void NDAs or confidentiality clauses to the extent that they seek to prevent a victim or direct witness of crime (or a person who reasonably believes they fall within these categories) from making an allegation of or disclosure of information relating to (a) relevant criminal conduct (i.e. the conduct that made the individual a victim or direct witness of crime, or reasonably believe that they fall within these categories), and/or (b) the other party to the agreement's response to such conduct or such a disclosure, except in the circumstances specified in regulations. This will mean that an NDA cannot be validly used to prevent a victim or direct witness of crime, including those who reasonably believe they fall into those categories, from speaking about the relevant criminal conduct to anyone and for any purpose.

- The rest of this IA, which accompanies the Bill, sets out the issues under consideration, the options being considered to address them and their associated impacts. The costs presented reflect the best information currently available, and we will continue to work with relevant agencies and other government departments to refine estimates as needed.

Measure 1: automatic restriction of the exercise of parental responsibility in cases of serious child sexual abuse

- Child sexual abuse, including abuse in the family environment (known as intra-familial sexual abuse), remains a pervasive yet under reported problem.¹ Conservative estimates suggests that at least 15% of girls/young women and 5% of boys/young men experience some form of sexual abuse before the age of 16, including abuse by adults and under-18s.²
- Sexual abuse can have damaging and long-lasting impacts on victims across their life course. While individuals will experience their abuse and the impacts of it differently, child sexual abuse can have long-term impacts on children's mental and physical health, emotional wellbeing and ability to form healthy relationships.³ Abuse by a family member, particularly a parent or carer, may be especially traumatic because of the betrayal, stigma and secrecy it involves. Children can face severe impacts from sexual abuse even where they are not the direct victims of the crime itself.⁴
- When convicted of a child sexual offence, offenders are placed on the Sex Offenders Register. This places restrictions on them, including who they can live with, where they can travel and who they can work with – in particular, they cannot work in roles involving access to children. However, at present, when a parent commits a child sexual offence, including against their own child, they maintain parental responsibility for all of their children unless another party initiates a successful process to remove or restrict it. This means they are still able to be involved in decisions about their child's life.
- For some children, the offender's ongoing exercise of parental responsibility can be harmful. For example, a child who is a victim of sexual abuse by a parent may find it very traumatic to know their abuser receives updates or makes decisions about their lives, such as school and medical decisions. Where the child was not a direct victim, perhaps a

¹ [Key messages from research on intra-familial child sexual abuse \(2nd edition\)](#)

² [The scale and nature of child sexual abuse: Review of evidence](#)

³ [Key messages from research on the impacts of child sexual abuse](#)

⁴ See for example: [Key messages from research on intra-familial child sexual abuse \(2nd edition\)](#), [Children's perspectives on family members' needs and support after child sexual abuse - ScienceDirect](#); [Impact of child sexual abuse on non-abused siblings: A review with implications for research and practice - ScienceDirect](#)

sibling of the victim child or a child of the offender who is not related to the victim, the offender's continued exercise of parental responsibility can also be harmful. This includes the negative psychological impacts that can result from a child knowing that their parent is capable of such an offence against another child. By their actions, the offender has also demonstrated a clear lack of insight into child welfare and may pose a risk to all children, including their own. Children may not want a parent who has committed such offences involved in decision making about their life.

7. Parental responsibility is defined in the Children Act 1989 as 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. Mothers have automatic parental responsibility, as do fathers and second female parents who were married to, or in a civil partnership with, the mother at the time of birth, or who 'legitimise' it by marrying or entering a civil partnership with the mother afterwards. Fathers and second female parents who were not married to or in a civil partnership with the mother may acquire it through avenues such as being named on the birth certificate.
8. Outside of adoption and surrogacy proceedings, the court can only remove parental responsibility if it was acquired in certain ways. While it cannot remove the parental responsibility of a person who has obtained it automatically, the court can restrict the parental responsibility of any individual, irrespective of how their parental responsibility was obtained. Restricting the exercise of parental responsibility means that no step can be taken in exercise of parental responsibility.
9. However, this requires an individual, for example, the non-offending parent to make an application to court. It can be very challenging – financially and emotionally – for non-offending parents/carers to make this application. Many may be put off from doing so, potentially leaving children at risk of harm. For those that do apply to the court, it can also be an opportunity for the offender to continue or initiate domestic abuse through the court system.
10. As part of the background material to the 2024 King's Speech, the Government committed to legislate to restrict parental responsibility for child sex offenders. The change will mean that instead of the non-offending parent/carer having to initiate the process, the offender's parental responsibility will be automatically restricted at the point they are sentenced. This will protect children and families from ongoing harm by offenders exercising their parental responsibility abusively.
11. This measure will apply to offenders who commit a serious sexual offence against a child and who are sentenced to custody for four years or more (see annex A for a list of the type of offences included in this measure). It will restrict the offender's exercise of parental responsibility for all children they hold parental responsibility for. In most cases, the person with parental responsibility will be a parent of the child. However, other individuals can hold parental responsibility for a child where they are not the parent. This may be, for example, when a child is living with another family member as their parents were unable to care for them or where step-parents have responsibility. In some cases, then, the offender may not be the parent of the child(ren) involved. However, for simplicity, in relation to this measure we refer to parent and child in this IA.

Measure 2: Automatic Restriction of the Exercise of Parental Responsibility where a child is born of rape

12. In year ending June 2024, 655 offenders were sentenced for rape of a female over 16.⁵ In up to 20 of these cases each year, a child is conceived as a result of this offence.⁶ Where a child is born as a result of rape there are clear negative impacts on both them

⁵ [Criminal Justice System statistics quarterly: June 2024 - GOV.UK](#)

⁶ Please see paragraph 122 for an explanation of this estimate.

and their mother. The direct impact on the child is recognised in law by virtue of Section 1 of the Victims and Prisoners Act 2024, which explicitly includes children born from rape within the definition of a “victim”. Where an offender has committed rape which has led to the birth of a child there is a clear risk of significant harm to that child.

13. By recognising the victim status of children conceived through rape, the law acknowledges that these children are not merely affected by the offence but are a direct consequence of it. Their conception is inseparable from the criminal act, and this reality can carry lifelong implications for their identity, mental health, and emotional wellbeing. In relation to this measure, we refer to these children as ‘victim children’ throughout this IA for this reason.
14. In certain circumstances, such as where the offender was married to the child’s mother at the time of their birth or the mother and father registered the birth together, the offending father will have parental responsibility for the child, unless another party initiates a successful process to remove or restrict it. For some of these children, the offender’s ongoing exercise of parental responsibility can be harmful. Research and lived experience show that such children may face stigma, trauma, and complex family dynamics.⁷ In these circumstances, it can be very traumatic for children to know, for example, that the offender receives updates or makes decisions about their lives.
15. To restrict parental responsibility and protect children, under the current law, the victim mother would be required to make an application to court. It can be very challenging – financially and emotionally – for mothers to make this application, especially following a challenging and difficult Crown Court case. Many may be put off from doing so, potentially leaving children at risk of harm. For those that do apply to the court, it can also be an opportunity for the offender to continue or initiate domestic abuse through the court system.
16. This measure will automatically initiate a process to restrict the exercise of an offender’s parental responsibility, or refer the case to the local authority, where child was conceived by the rape offence. It will protect children from ongoing psychological or emotional harm resulting from the offender exercising their parental responsibility. The automatic initiation of this restriction will also free victim mothers from the responsibility and stress of potentially having to make an application to court themselves to restrict the offender’s parental responsibility.

Measure 3: Update the routes to provide victims with information about their offenders’ release

17. His Majesty’s Prison and Probation Service’s (HMPPS) Victim Contact Scheme is a vital communication tool that offers eligible victims the opportunity to be contacted at key points of their offender’s sentence, including information about upcoming release or discharge, and make representations about any protective conditions. It arises from section 35 to 45 of the Domestic Violence, Crime and Victims Act 2004, and applies to victims of a specified sexual, violent or terrorism offence, where the offender receives a sentence of 12 months or more imprisonment or where a hospital order⁸ is made.
18. The Domestic Violence, Crime and Victims Act 2004 is now over 20 years old. Victims of specified offences are currently served by different operational schemes, such as victims

⁷ See: [Children Conceived in rape](#)

⁸ This means the offender is detained in a hospital for treatment under the Mental Health Act 1983 with or without a restriction order. Restrictions will be placed on a patient if the court considers that this is necessary for the protection of others from serious harm. The Secretary of State is involved in the management of ‘Restricted patients’. This means that the Secretary of State will make decisions about the offender’s rehabilitation. ‘Non-Restricted patients’ are managed by clinicians, and hospital managers.

of stalking and harassment under the Victim Notification Scheme (which currently only extends to victims of offenders detained in prisons). Victims who fall outside of specified offence types served under these schemes do not have a clear route to receive information about an offender's release.

19. To address these issues, this measure will:

- a. Bring existing operational schemes, such as the Victim Notification Scheme, into the Victim Contact Scheme.
- b. Give other victims a clear route to request information about their offender's release, which will be provided via a victim helpline to victims of specified violent and sexual offences, victims of offences committed as part of perpetrating domestic abuse, or victims otherwise considered to be at risk of physical or psychological harm without information relating to their offender's release, where appropriate.
- c. Include a new definition of 'victim' for the purposes of the scheme, which specifies that this includes those directly subjected to criminal conduct, bereaved family members, children who have witnessed domestic abuse (considered victims in their own right as defined by the Domestic Abuse Act 2021), and persons born as a result of rape.

Measure 4: Extending the powers of the Victims' Commissioner

20. The Victims' Commissioner is an independent voice for victims and witnesses of crime and antisocial behaviour. Their statutory functions, as set out in the Domestic Violence, Crime and Victims 2004 ("DVCVA"), are to:
 - Promote the interests of victims and witnesses;
 - Take steps to encourage good practice in the treatment of victims and witnesses and;
 - Keep the operation of the Victims' Code⁹ under review.
21. Under their broad remit, the Victims' Commissioner can engage with those they deem relevant in delivering their functions in relation to victims and witnesses.
22. In its manifesto, the Government committed to increasing the powers of the Victims' Commissioner, which will be delivered both through the implementation of the Victims and Prisoners Act 2024 ("the 2024 Act") and by introducing new measures in the Victims and Courts Bill.
23. The 2024 Act enhanced the Victims' Commissioner's powers so that bodies who must act in accordance with the Victims' Code are now under a duty to cooperate with requests from the Victims' Commissioner, where appropriate and reasonably practicable. Authorities under the Victims' Commissioner's remit must now respond to recommendations made to them in the Victims' Commissioner's reports within 56 days. In addition, criminal justice inspectorates now have to consult the Victims' Commissioner on their inspection frameworks and programmes. These measures came into force on 29 January 2025.

⁹ The Victims' Code sets out the minimum level of service that victims should receive from the criminal justice system in England and Wales and can act as a practical guide for victims to understand what they can expect.

24. Once the further provisions in the 2024 Act are implemented, the Victims' Commissioner's functions to promote the interests of victims and witnesses and keep under review the operation of the Victims' Code will be reflected in their position as a statutory consultee for:
- the new Victims' Code and any amendments to it;
 - any Victims' Code non-compliance notifications that are issued by Ministers;
 - guidance and regulations underpinning the Victims' Code compliance and awareness measures.
25. This measure contains three reforms to the powers of the Victims Commissioner. There are described in the following paragraphs.
26. **Measure 4a** will place a new duty on the Victims' Commissioner to produce an annual report on compliance with the Victims' Code, enabling them to provide independent commentary from a victim-focused perspective on how agencies are complying with their duties under the Victims' Code. Ministers (the Secretary of State for Justice, Attorney General and Home Secretary) will be required to have regard to the report as part of preparing their own report on Victims' Code compliance pursuant to section 11(1)(b) of the 2024 Act. This measure will be inserted as an addition to the existing Code compliance reporting framework detailed in the 2024 Act.
27. **Measure 4b** will place a duty on local authorities and social housing providers, where they are engaged with victims of antisocial behaviour, to cooperate with the Victims' Commissioner, where appropriate and reasonably practicable to do so. This will enable the Victims' Commissioner to request information from those bodies relevant to victims of antisocial behaviour, identify systemic issues, make more informed recommendations, and legitimately scrutinise how the system responds to those victims.
28. **Measure 4c** will amend current legislative restrictions to enable the Victims' Commissioner to exercise their functions in relation to individual cases, where they raise issues of public policy relevance to other victims and witnesses, and the exercise of functions is likely to promote the interests of victims/witnesses in relation to the issue(s).

Measure 5: Voiding non-disclosure agreements (NDAs) in relation to disclosures made by victims of crime about relevant criminal conduct

29. NDAs can take the form of a standalone agreement or contract, or as a confidentiality clause within a larger agreement or contract, under which it is agreed that certain information will be kept confidential, in exchange for something of value (for example, payment). If one party breaches the terms of a confidentiality clause, the other party may be able to pursue a claim for breach of contract.
30. NDAs can serve legitimate purposes, for example by protecting sensitive business information or by maintaining the privacy of a person or family employing live-in staff. There are also circumstances where NDAs can be used (in some cases validly) to prevent victims and witnesses of crime, harassment (including sexual harassment), and discrimination, from speaking about the conduct to others – including to close family members, support services, or the media. These circumstances can include cases such as where the victim has requested an NDA to help them move on from an incident.

31. There is a general common law principle that the courts will not enforce a confidentiality clause where there is an overriding public interest in disclosure of the information purported to be protected. This means that there are circumstances, beyond specific statutory limitations, in which the courts will find an NDA to be unenforceable. Case law indicates that the courts are unlikely to enforce a confidentiality clause insofar as it seeks to prevent disclosures of information about criminal conduct to the police or appropriate regulatory or statutory bodies.
32. However, while the common law offers some protection against the misuse of NDAs, recent cases have shown that victims of crime are often unaware of these protections and have been effectively silenced by NDAs. There is also evidence that NDAs have been used to silence victims and conceal wrongdoing. This has led to calls for statutory reform to make these protections clearer and more accessible:
- a. The Higher Education (Freedom of Speech) Act 2023, placed a duty on governing bodies of registered higher education providers to secure that providers do not enter into NDAs with students, staff, members or visiting speakers where they come forward with a complaint of sexual misconduct, abuse or harassment, or any other form of bullying or harassment. Any such NDAs entered into on or after 1 August 2025 are void.
 - b. Section 17 of the Victims and Prisoners Act 2024 (the “2024 Act”), due to commence on the 1 October 2025, voids NDAs to the extent that they purport to prevent victims of crime disclosing information to a specified list of bodies, including lawyers, regulated professionals and victim support services, for specified purposes related to the criminal conduct (as well as making clear in statute that NDAs cannot validly prevent a victim of crime from reporting the crime to the police or other bodies that investigate and prosecute crime, in line with the common law position).
 - c. The Employment Rights Bill, currently before Parliament, includes a clause which seeks to void any provision in an agreement between a worker and their employer insofar as it purports to prevent the worker from disclosing an allegation or disclosure of information relating to about relevant harassment or discrimination or their employer’s response to the conduct or such an allegation or disclosure of information, except in circumstances specified in regulations. At time of publication 28 October 2025 this bill has not yet received Royal Assent.
33. Under the new measure, NDAs will be unenforceable to the extent that they purport to prevent a victim or direct witness of crime (or a person who reasonably believes they fall within these categories) from making allegations of, or disclosing information relating to (a) relevant criminal conduct to anyone, for any purpose and/or (b) the other party to the agreement’s response to such conduct or such a disclosure. The effect of the measure will be that an NDA cannot be used to prevent a victim or direct witness of crime, including those who reasonably believe they fall into those categories, from speaking about the relevant criminal conduct to anyone and for any purpose. The measure will bind the Crown, but will not apply to a narrow cohort of specified agreements in the interests of national security.
34. The measure will include two regulation-making powers for the Secretary of State to: (i) provide for exceptions for NDAs which meet certain criteria, so that they would not be voided under this measure; and (ii) provide that disclosures to certain persons, for certain purposes or in certain circumstances will always be permissible even when an ‘excepted’ NDA has been entered into. These powers allow the Secretary of State to provide for a

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

1. Policy Rationale and Objectives

Rationale

35. The conventional approach to government intervention is based on efficiency or equity arguments. Government may consider intervening if there are strong enough failures in the way markets operate, for example monopolies overcharging debtors, or if there are strong enough failures in existing government interventions, such as outdated regulations generating inefficiencies. In all cases the proposed intervention should avoid generating a further set of disproportionate costs and distortions. Government may also intervene for reasons of equity (fairness) and for re-distributional reasons (e.g. reallocating resources from one group in society to another).
36. The primary rationale for intervention in this case is for equity in the treatment of all victims, by bolstering the accountability on the system that supports victims, ensuring systemic issues are addressed, that victims' voices are heard and that victims of crime who sign NDAs are able to disclose information about relevant criminal conduct. The Bill will bring greater scrutiny and accountability to bear where the needs of the victims are not being met and protect children, and their non-offending parent/carers, from ongoing control and abuse by offenders of serious child sexual abuse.

Policy Objectives

37. The key policy objectives of the legislative measures in the Bill which are appraised within this IA are that:
 - i. Children should be protected from ongoing psychological or emotional harm resulting from the exercise of parental responsibility by a person convicted of a serious child sex offence or convicted of rape where the child was conceived as a result of that offence; and to protect families from the need to initiate, complex and emotionally burdensome family court cases.
 - ii. Victims should have confidence that they will get the support and communication they need from the system.
 - iii. NDAs should not be able to prevent victims of crime from speaking about relevant criminal conduct.
38. These policy objectives will be achieved by:
 - i. Improving independent oversight of the Victims' Code;
 - ii. Amplifying the victim voice in engagement with the system;
 - iii. Bolstering the Victims' Commissioner's ability to engage with agencies to address public policy issues that impact victims;
 - iv. Enabling the Victims' Commissioner to better identify systemic issues, make more informed recommendations, and scrutinise how the system responds to antisocial behaviour through a victims' lens;
 - v. Creating parity of obligations between criminal justice system and non-criminal justice system agencies that have a role in supporting victims of antisocial behaviour;

- vi. Bringing existing operational schemes, such as the Victim Notification Scheme, into the Victim Contact Scheme and providing a new route for other victims to request information via a dedicated helpline;
- vii. Providing for the restriction of the exercise of parental responsibility for a person who has been convicted of a serious sexual offence against a child and is sentenced for over 4 years immediate custody.
- viii. Providing for the restriction of the exercise of parental responsibility for a man who has been convicted of the offence of rape and a child is born as a result of the offence.
- ix. Voiding NDAs to the extent that they purport to prevent a victim or direct witness of crime from speaking out about the relevant criminal conduct.

C. Affected Stakeholder Groups, Organisations and Sectors

Measure 1: Automatic restriction of the exercise of parental responsibility in cases of serious child sexual abuse

39. The main stakeholder groups most affected by this measure are:

- Offenders sentenced for serious child sexual abuse for four years or more
- Children with a parent or carer who is convicted of serious child sexual abuse
- Non-offending parents/carers of children with a parent who is an offender of serious child sexual abuse
- HMCTS
- The Legal Aid Agency (LAA)
- Cafcass, Cafcass Cymru and local authorities
- Family legal aid providers and solicitors or barristers doing private family law work

Measure 2: Automatic restriction of the exercise of parental responsibility where a child is born of rape

40. The main stakeholder groups most affected by this measure are:

- Offenders sentenced for rape where a child was born as a result of the offence
- Victims of rape who conceive a child as a result of the offence
- Children who were conceived as a result of rape
- HMCTS
- The Legal Aid Agency (LAA)
- Cafcass, Cafcass Cymru and local authorities
- Family legal aid providers and solicitors or barristers doing private family law work
- Crown Prosecution Service/police victim support staff

Measure 3: Update the routes to provide victims with information about their offenders' release

41. The main groups most affected by this measure are:

- The victims of crime and their representatives
- His Majesty's Prison and Probation Service (HMPPS)
- His Majesty's Courts and Tribunal Service (HMCTS)

Measure 4: Extending the powers of the Victims' Commissioner

42. We expect that the main group of those that will be most affected by the measures in this Impact Assessment are victims and witnesses of crime and antisocial behaviour. The other bodies will be:
- The victims of crime
 - The Victims' Commissioner;
 - Local authorities, who commission and provide a range of local services to residents, including some victim support services;
 - Social housing providers, which are private registered providers of social housing or registered as a social landlord;
 - Criminal justice agencies under the Victims' Code Compliance framework.

Measure 5: Voiding NDAs in relation to disclosures made by victims of crime about relevant criminal conduct

43. The main stakeholder groups most affected by the NDA measure are:
- Victims or direct witnesses of crime
 - Businesses / organisations / employers who use NDAs
 - Individual persons who use NDAs
 - Lawyers who advise on NDAs
 - Wider society - In addition to the use of NDAs in employment situations, where these are used on other contexts, it is expected that this measure will generate wellbeing effects for the victims and witnesses of crime and change in a positive manner wider attitudes concerning attempts to conceal criminal activity.

D. Description of options considered

44. To meet the policy objectives, the following options were considered for this Impact Assessment are:
- **Option 0:** Do nothing in legislation. This would result in no changes taking place to meet the policy objectives as all changes require legislation.
 - **Option 1:** All measures are introduced in the Victims and Courts Bill.
45. The Government's preferred approach is **Option 1** as it meets the policy objectives.

Options 0: Do nothing

46. This option would be to do nothing. This would mean that there would be no legislative changes to better support the Victims' Commissioner in fulfilling their duty to oversee delivery of the Victims' Code or in bolstering their strategic functions to further enable them to hold agencies to account on how they deliver for victims and promote positive systemic change. Nor would there be any legislative changes to how victims can receive or request information about their offenders' release and perpetrators of child sexual abuse and offenders who father a child through rape would not have their parental responsibility restricted. NDAs that purport to prevent a victim or direct witness of crime, or those who reasonably believe they fall into those categories, from speaking about relevant criminal conduct, would still be enforceable in certain situations.
47. Option 0 is therefore undesirable because it would fail to meet the policy objectives.

Option 1: All measures are introduced in the Victims and Courts Bill.

Measure 1: Automatic restriction of the exercise of parental responsibility in cases of serious child sexual abuse

48. The Criminal Justice Act 2003 specifies a list of offences, including child sex offences, that are considered serious enough to warrant a longer portion of a sentence to be served in prison (Section 244ZA and Schedule 15). These offences cover (for instance) rape, sexual assault, and abuse of children through prostitution and pornography.
49. This measure will introduce a system for the automatic restriction of the exercise of parental responsibility for child sex offenders. This will apply where an individual has been convicted of one of these “serious” sexual offences against a child and has received an immediate custodial sentence of four years or more. In committing a sexual offence of this kind against a child, these offenders have demonstrated a profound failure to understand children’s physical and psychological welfare and safety.
50. We consider these offenders pose a significant risk to all children such that an automatic restriction should be put in place that restricts parental responsibility for all children the offender holds it for. This includes restricting the exercise of parental responsibility for children who were not a direct victim of the offence, referred to in this IA as an indirect-victim child (this may be the victim child’s sibling, or the child may not be related to the victim-child at all). This is because there remains a strong rationale for automatically restricting the offender’s parental responsibility given the risk offenders pose to children and the impact their parents offending can have on the child.
51. Where the offender holds parental responsibility for the direct victim child, this measure provides further protection by preventing the offender exercising their parental responsibility over a related child. As many decisions made by parents impact all children living in a household, offenders can use their decision-making power over other children to continue their abuse of the victim-child. It is therefore important that this measure applies to all children the offender holds parental responsibility for.
52. This measure will require the Crown Court to make a prohibited steps order at the point of sentencing. The order will make clear that the offender cannot take any step to exercise their parental responsibility in relation to any child they hold parental responsibility for without the consent of the High Court or the family court. The order will remain in place until the child(ren) reaches the age of 18, unless the order is varied or discharged by the High Court or the family court.
53. Despite the harm caused by the offender, some children or parents may want the offender to be involved in ongoing decisions about their life. In such cases, following the making of the order by the Crown Court, the offender, or others with parental responsibility, will still be able to apply to the family court to vary or discharge the order.¹⁰ This is an important protection to ensure the best interests of the children can be fully considered.
54. Whilst all sexual offences will have an impact on children, it is vital that any automatic mechanism to restrict the exercise of parental responsibility is based on the knowledge that such offenders will present a clear and unequivocal risk to the children involved. In the case of the offences covered by this measure, this risk is clear. In the case of other offences, this may not always be the case. Even for other serious offences, situations can be more complex and so the rationale for taking an automatic step, without detailed

¹⁰ Other individuals, such as grandparents, who do not hold parental responsibility for the child, may be able to apply for the family court to consider the order. They would require the permission of the court to do so.

consideration of the specific circumstances of the case, is less clear. Families whose situations fall outside the scope of this measure can still make an application to court.

55. There may be a small number of cases where the individual convicted of a relevant offence goes on to successfully appeal their conviction or sentence. If they are subsequently acquitted of the offence, or their sentence is reduced to less than four years, the local authority will be required to automatically make an application for the family court to determine whether the order made at the original sentencing hearing (or any varied version of it) is in the best interests of the child(ren) involved given the new information.

Measure 2: Automatic restriction on the exercise of parental responsibility where a child is born of rape

56. This measure will introduce a system for the automatic restriction of the exercise of parental responsibility for offenders who father a child through rape. It will apply where a person is convicted of rape under section 1 of the Sexual Offences Act 2003 and a child is conceived and born as a result of that offence. This is because we consider these offenders pose a significant risk to children such that an automatic restriction on the exercise of their parental responsibility should be put in place. The measure will introduce two routes to restricting and offenders' parental responsibility depending on the nature of the case.
57. In some cases, it will be established during criminal proceedings that a child was conceived as a result of the offence. This would be, for example, where the child's conception formed a part of the Crown's evidence and it was established beyond a reasonable doubt. In these cases, this measure will require the Crown Court to make a prohibited steps order at sentencing to restrict the exercise of the offender's parental responsibility, unless it would not be in the interests of justice to do so. The restriction on the exercise of parental responsibility will apply only to the child born as a result of the rape and not to any siblings or other children the offender may have parental responsibility for. This is referred to as the automatic route.
58. Despite the harm caused by the offender, some victim children or victim parents may want the offender to be involved in ongoing decisions about the child's life. In such cases, following the making of the order by the Crown Court, the offender, other parental responsibility holder or an interested party (subject to permission) will still be able to make an application to the family court to vary or discharge the order.¹¹ This is an important protection to ensure the best interests of the children can be fully considered.
59. In other cases, the child's conception may not be proven to the criminal standard, for example when it is not clear in the context of an ongoing relationship whether the child resulted from an incident of rape or not. Rather there may be evidence to support the assertion that the child may have been conceived as a result of the offence, but this is not a proven 'fact' of the case. For example, the child may have been conceived around the time of the offence, but consensual and non-consensual sex occurred around this time.
60. In such circumstances, where an offender is convicted of rape, has parental responsibility for a child, and where the Crown Court is satisfied that child may have been conceived from the rape, the measure will also place a duty on the Crown Court to refer the case to

¹¹ Other individuals, such as grandparents, who do not hold parental responsibility for the child, may be able to apply for the family court to consider the order. They would require the permission of the court to do so.

the local authority. The Crown Court must make this referral within 30 days of sentencing. The local authority will then be required to gain consent from the victim mother to apply to the family court or High Court to consider the facts of the case and whether any order should be made. The local authority will have six months to obtain the victims consent and 30 days to make an application to court if this consent is gained. The six-month timeline will give the victim time to consider their decision. This is referred to as the local authority route.

61. In their role to safeguard children, the local authority may make other applications in respect of all of the offender's children, not just the child conceived by the offence, as they do under their existing obligations. The family court may also make orders in relation to other children if a question as to their welfare is raised during proceedings. However, the measure itself only relates to children conceived directly as a result of the offence.
62. Under both routes, there may be a small number of cases where the individual convicted of rape under section 1 of the Sexual Offences Act 2003 offence goes on to successfully appeal their conviction. If they are subsequently acquitted of the offence, the local authority will be required to automatically make an application for the family court to determine whether the order made at the original sentencing hearing is in the best interests of the child involved.

Measure 3: Update the routes to provide victims with information about their offenders' release

3a) Bring existing operational schemes into the Victim Contact Scheme

63. This Bill will bring victims of stalking and harassment whose offenders are detained in prison who are currently served by the Victim Notification Scheme, and victims of the same offences but where the offenders are detained under hospital orders, who are not currently served by the Victim Notification Scheme, into the Victim Contact Scheme.

3b) Give victims a clear route to information about their offender's release

64. The Bill will give other victims a clear route to request information about their offender's release, which will be provided to eligible victims via a victim helpline if requested.

3c) Include a new definition of a victim

65. The Bill will include a new definition of 'victim' for the purposes of the scheme, which will mean the Victim Contact Scheme and helpline will capture those directly subjected to criminal conduct, bereaved family members, children who have witnessed domestic abuse (considered victims in their own right as defined by the Domestic Abuse Act 2021), and persons born as a result of rape.

Measure 4: Extending the powers of the Victims' Commissioner

4a) Victims' Commissioner to Independently report on Victims Code

66. Under this measure, the Victims' Commissioner will be required to annually prepare a report to Ministers on Victims' Code Compliance.
67. To complement this duty, Ministers (the Justice Secretary, Home Secretary and the Attorney General) will be required to have regard to the Victims' Commissioner's Code compliance report as part of preparing their report pursuant to section 11(1)(b) of the 2024 Act.

4b) Duty to cooperate on antisocial behaviour

68. This duty will complement the existing obligations for certain criminal justice system agencies responsible for providing services under the Victims' Code, which already require cooperation with the Victims' Commissioner as per section 22(4) of the 2024 Act.
69. The new duty will ensure parity with the section 22(4) duty to cooperate already placed on agencies responsible for delivering services for victims of crime. It is intended to enable the Victims' Commissioner to request information which will assist them to identify systemic issues, make more informed recommendations, and scrutinise how the system responds to antisocial behaviour through a victims' lens.

4c) Victims' Commissioner action in relation to individual cases

70. The Bill will amend current restrictions on the Victims' Commissioner's functions to make clear that they can exercise their functions in relation to individual cases that raise public policy issues of relevance to other victims and witnesses, where this is likely to promote the interests of other victims or witnesses in relation to the issue(s).

Measure 5: Voiding NDAs in relation to disclosures made by victims of crime about relevant criminal conduct

71. As noted in Section A above, there are recent and current legislative activities underway to clarify and restrict the scope of NDAs, including section 17 of the 2024 Act. Measure 5 will, however, go further than section 17 by making it so that NDAs used in any context cannot be legally enforced to the extent that they purport to prevent victims and direct witnesses of crime (including those who reasonably believe they fall into these categories), from making allegations of, or disclosing information relating to, relevant criminal conduct to anyone, for any purpose.
72. The measure will also make NDAs unenforceable to the extent that they purport to prevent these individuals from making disclosures about the other party to the NDA's response to the criminal conduct, or to the making of such an allegation or disclosure of information. Unlike section 17 of the 2024 Act, this measure does not limit who victims and direct witnesses of crime can make disclosures to, or for what purpose they can disclose that information.
73. The measure will include two regulation-making powers to allow the Secretary of State to: (i) provide for exceptions for NDAs which meet certain criteria, so that they would not be voided under this measure; and, (ii) provide that disclosures to certain persons, for certain purposes or in certain circumstances will always be permissible, even when an 'excepted NDA' has been entered into. These powers allow the Secretary of State to provide for a system of exceptions which recognises that there may be situations where both parties wish to have the protection offered by an NDA in relation to the criminal conduct or where it is appropriate for the NDA to remain enforceable.

E. Cost and Benefit Analysis

74. This IA follows the procedures and criteria set out in the Impact Assessment Guidance and is consistent with the HM Treasury Green Book.
75. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the proposals under consideration.

76. IAs place a strong focus on the monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. These might be impacts on certain groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised
77. The costs and benefits of each option are compared to Option 0, the counterfactual or “do nothing” scenario, where fees are maintained at their current levels. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).
78. The impacts in this IA have been estimated as follows:
 - Price base year of 2024/25
 - 10 year appraisal period beginning in 2025/26
 - Discounting base year of 2025/26
 - 20% optimism bias has been applied to all costs
 - Measures 1 and 3 are assumed to begin in 2025/26, with measure 1 assumed to be implemented in 2026/27
79. As with all MoJ IAs, we do not include the direct impact on offenders where this is necessary to uphold the sentence of the courts.

Option 1: All victims measures are introduced in the Victims and Courts Bill.

Measure 1: Automatic Restriction of the Exercise of Parental Responsibility in cases of serious child sexual abuse

Methodology

80. There is limited robust evidence available on private family law cases where applications have been made to restrict the exercise of parental responsibility. Therefore, to derive the cost estimates for this measure, we have had to make a series of assumptions about how this measure will operate. The overall impact of these assumptions is that there is considerable uncertainty over the estimates provided.
81. It is anticipated that the family court will see an increase in the number of applications for private law children cases as a result of this measure. This increase will come from offenders and/or families applying for the family court to consider varying or discharging the prohibited steps orders made by the Crown Court or pursuing further related orders. This will have a direct impact on the costs for all agencies involved in these cases.
82. Across certain courts in England, and Wales, a new approach to private law children cases (including prohibited steps orders) is being implemented. Known as Pathfinder, this model differs significantly in how cases are currently handled by the system. The costing methodology used in this IA is based on the current standard approach to private law children cases, known as the child arrangements program (CAP).
83. Where cases come to the family court to review the prohibited steps order, there is likely to be a different cost profile for those handled under Pathfinder compared to those handled under CAP. At this point in time, it is not possible to model the cost profile of these cases under Pathfinder. As the government is committed to rolling out Pathfinder across England and Wales, this means the future costs of delivering this measure are more uncertain.

84. There may be a small number of cases where the individual convicted of a relevant offence goes on to successfully appeal their conviction or sentence. If they are subsequently acquitted of the offence, or their sentence is reduced to less than four years, the local authority will be required to automatically make an application for the family court to determine whether the order made at the original sentencing hearing is in the best interests of the child(ren) involved. We have been unable to account for the costs of this but do not anticipate it will have a large impact on the costs of the measure due to the expected small numbers.

Volumes

85. We have estimated that if all offenders convicted of a relevant offence brought an application for the family court to consider the circumstances of the case, over 1300 new family court cases would be created each year. This estimate is based on the number of offenders sentenced to over four years custody for the relevant offences.¹² We do not know how many of these offenders hold parental responsibility for children under the age of 18 at the time of receiving their sentence. To estimate this, we have drawn on an estimate of the number of prisoners with children.¹³
86. We do not know the likelihood of offenders or other family members making an application for the family court to consider the merits of the case. There is therefore a lot of uncertainty over the volume of new cases that will be created in the family court through this measure.
87. Of the cases that do come to family court, legal aid may be available to the parties and children involved. Uncertainty around who the parties involved in these cases would be, the merits of an individual's case, and the financial circumstances of each party makes it challenging to understand the additional demand for legal aid. Both factors are significant drivers of the overall cost of this measure, creating considerable uncertainty over its cost impacts.
88. Cafcass and Cafcass Cymru represent children in family court cases in England and Wales respectively. They are independent and advise the family courts about what is safe for children and in their best interests. The level of involvement that Cafcass, Cafcass Cymru or a local authority (who may be involved in some cases) will have in these cases are uncertain and will likely vary depending on the complexity of the case, the risk to the children, and the vulnerability of the children, and adults, involved.
89. Each new family court case will result in substantial costs to Cafcass and Cafcass Cymru if it goes to a first hearing and the resource needed to support a case will further increase as a case returns for multiple hearings, or if additional social work involvement is required (such as if additional reports are ordered by the court). As this measure is novel, we do not know the complexity of the cases that will come before the court and therefore the full extent of the work that would be required from Cafcass, Cafcass Cymru or the local authority. We have therefore used estimates of the cost of cases with different resource requirements to estimate the cost of this measure.

¹² [Criminal Justice System statistics quarterly: June 2024 - GOV.UK](#)

¹³ <https://www.vkpp.org.uk/assets/Files/Publications/National-Analysis-of-police-recorded-CSAE-Crimes-Report-2022-external.pdf> Estimates of children with a parent in prison - GOV.UK: This analysis indicates that 78% of prisoners have a child.

90. Some of the new cases this measure will create may involve work from local authority social workers where the children are already known to the local authority, and work will be allocated between Cafcass or Cafcass Cymru based on the geographical area (England or Wales) in which the children live. As we do not know where the children of offenders live, or how many will be known to the local authority, it has not been possible to make an assessment of the proportion of cases that will go to local authorities, Cafcass or Cafcass Cymru. Instead, we have provided a single cost estimate.

Costs

91. The cost to the family court of this measure has been estimated using the cost of an average sitting day in the family court and an estimate of the average time it takes to dispose of a family law case. The cost of a family court sitting day includes assumptions for all the operational costs of the court required during the life of the case.
92. The cost to Cafcass, Cafcass Cymru and local authorities has been calculated using estimated cost for Cafcass to deliver prohibited steps order cases with different resource requirements. It is not possible to estimate the proportion of cases that will be heard by each agency, and so we have used the costs of Cafcass, as the largest organisation, to estimate the overall cost impact.
93. The costs to the LAA have been estimated using the average cost of a legal aid certificate for a prohibited steps order application and the average cost of a legal aid certificate for an application to vary/discharge a prohibited steps order. It is unknown whether any review would mirror proceedings for either a prohibited steps order application or an application to vary/discharge to an existing order, so our central estimate takes the midpoint of the two average costs (£5,100 per certificate). There will also be additional administrative time required from the LAA to process the additional claims.

Costs of Measure 1

Monetised costs

Legal Aid Agency

94. The increase in private family law cases that may be eligible for legal aid is estimated to cost £5.1m per annum at steady state. The increase in applications for legal aid is estimated to incur an additional operational cost of around £0.05m per year for the LAA.

HMCTS

95. It is estimated that the increase in private law children applications would result in an additional cost to HMCTS for the family court to hear the additional cases. In addition, there would also be a small administrative cost for HMCTS to process the new orders made at the Crown Court. It is anticipated that these costs would be minimal as this process will create an ancillary order to a main service. In total, it is estimated this would cost an additional £2.2m for HMCTS.
96. There may be additional costs to HMCTS through an increase in returning applications where offenders, or families, make additional applications to court. For example, an offender may initially apply for the family court to consider the order after sentencing and again after they are released from prison. However, we have no way to estimate the additional returning cases this policy may create and so have been unable to monetise this potential cost.

97. The expected increase in applications will likely result in an increase in the number of proceedings where work is ordered for Cafcass, Cafcass Cymru and local authorities. At steady state it is estimated that this could cost £1m across the agencies.

Total

98. Based on this, it is anticipated the cumulative costs for this measure are around £8.4m a year for England and Wales.

Non-monetised costs

Offenders or families of offenders

99. There may be costs to offenders, or their family on their behalf, if they chose to apply for the family court to vary or discharge the prohibited steps order. For offenders who are not eligible for legal aid, they can either choose to represent themselves in court or to fund their own legal representation. This would result in a direct financial cost to the offender and may result in a wider financial and emotional cost for the time they spend in court.
100. In some cases, the offender may be dissuaded from making an application for consideration of the case by the family court if they are not eligible for legal aid. Alongside legal costs, offenders who make an application to court may be required to pay or contribute towards the court fee for the application.

Non-offending parent/carer

101. In some circumstances, non-offending parents/carers may themselves make an application for the family court to consider the circumstances of the case. In other cases, they may be required to respond to an application from the offending parent. Both situations may create financial (such as the costs of legal representation) and emotional costs for the non-offending parents/carers.
102. The emotional cost of a family court case may be particularly high for the non-offending parent/carer if their children have been directly harmed by the offending parent, or in situations where the non-offending parent/carer and children are also victims of domestic abuse. Where the non-offending parent/carer is the applicant, they may also be required to pay or contribute towards the court fee.
103. However, it is anticipated any costs to the non-offending parent/carer would be lower than under the current scenario where such parents would be required to make an application to the court themselves to restrict the offenders exercise of parental responsibility.

Direct-victim children of offenders

104. We do not anticipate any direct financial costs to direct-victim children to make or respond to an application to vary the prohibited steps order. Means-free legal aid is available to children who meet the merits test in relation to proceedings for the family court to consider the circumstances of the case once the prohibited steps order has been made by the Crown Court to restrict the exercise of parental responsibility. This would be where the child is made a party to proceedings by the court or the child is granted leave to apply.

105. Children may have complex emotions about their relationship with an offending parent, even when they are a direct victim of that parent. There may be some emotional cost to direct-victim children of their offending parent having their parental responsibility restricted.
106. Family court cases can be complex and stressful for children, and there may be additional emotional cost to direct-victim children of an ongoing family court case where an application is made to review the prohibited steps order. This could compound any trauma experienced from the offence and the criminal proceedings. It is not possible to monetise this cost.

Indirect-victim children of offenders

107. We do not anticipate any direct financial costs to indirect-victim children to make or respond to an application to vary the prohibited steps order. All children involved in the family court application will be eligible for legal aid in the same way, irrespective of whether they were the direct victim of the offence or not.
108. Children may have complex emotions about their relationship with an offending parent, especially where they were not harmed by that parent directly. There may be some emotional cost to indirect-victim children of their offending parent having their parental responsibility restricted.
109. Family court cases can be complex and stressful for children, and there may be additional emotional cost to children of an ongoing family court case. This may compound the trauma faced by indirect-victim children due to the disruption to their lives caused by the offender's behaviour. It is not possible to monetise this cost.

Benefits of Measure 1

Non-monetised benefits

Direct-victim children of offenders

110. Children who are sexually abused by their parent will be protected from the ongoing involvement of the offender in their life and from the ongoing control of those children's lives through the offender's exercise of parental responsibility, even when the offender is in prison and can no longer physically harm the child.

Indirect-victim children of offenders

111. Children of the offender who have not themselves been abused by their parent, still face the negative consequences of their parents' actions, including the potential psychological harm of knowing your parent is capable of such an offence against a child and still can exercise their parental responsibility for you. The offender has clearly demonstrated that they are a risk to children and so these children will be protected from the ongoing involvement of the offender in their life and from the ongoing control of those children's lives through the offender's exercise of parental responsibility.

112. Indirect-victim children may be a sibling of the victim child or may not be related to the victim child at all. When children are the sibling of the victim-child, this measure may help protect them from ongoing abuse. There is evidence that sexual abuse in the family often occurs in combination with other forms of physical or emotional abuse or neglect, including domestic abuse.¹⁴ The automatic restriction of parental responsibility may also help to protect sibling children from other forms of abuse.
113. In addition, whether a sibling of the victim child or a child of the offender, indirect-victim children may be protected themselves from sexual abuse. Much intra-familial child sexual abuse goes unidentified.¹⁵ Children may be afraid of their abusers, afraid of what will happen to them or their family if they were to disclose this or, especially for young children or children with additional needs, may not know the offender is abusing them. Therefore, whilst children may not have been identified as a victim of the offender, they may have been victimised or may have been at risk of abuse themselves. Therefore, restricting the offender's parental responsibility, even when the child was not a direct victim of the offence, may prevent further child sexual abuse and protect the indirect victim child by preventing future or undetected sexual abuse.

Non-offending parent/carer

114. This measure will help protect non-offending parents/carers from potential ongoing control of their and their children's lives through the offender's exercise of parental responsibility. Additionally, they will be protected, financially (legal costs and court fees) and emotionally, from being required to make an application to court to restrict the offender's ability to exercise their parental responsibility.
115. It is not possible to estimate the financial benefit for non-offending parents who would otherwise have been required to make a prohibited steps application to court themselves.

HMCTS

116. Given the serious nature of the offences included in this measure, there is a likelihood that some of the "new" cases are cases that would have come to family court anyway. The introduction of the automatic mechanism may see some of these cases being diverted away from the family court or may change the cost profile of these cases. This is because there will no longer be a requirement for non-offending parents to bring a case to court to restrict the exercise of parental responsibility.
117. Applications for a prohibited steps order to restrict the exercise of parental responsibility are likely to be complex cases. They may involve multiple applications before the child reaches the age of 18 or involve single applications requiring multiple hearings and reports over a prolonged period. Dealing with these cases swiftly, via the automatic prohibited steps order, may result in fewer applications or applications taking less court time than previously required.
118. This could result in some cost efficiencies to HMCTS for these cases that would have come to court without the introduction of this measure. We do not know how many cases would have come to family court anyway and so it is not possible to determine the efficiencies created to discount from the cost of the new cases that we expect will be created by this measure.

Children and Family Court Advisory and Support Services (Cafcass/Cafcass Cymru) and Local Authorities

¹⁴ Key messages from research on intra-familial child sexual abuse (2nd edition)

¹⁵ Key messages from research on intra-familial child sexual abuse (2nd edition)

119. As with HMCTS, Cafcass, Cafcass Cymru or local authorities may see some efficiencies if this policy results in diversion or simplification of some applications that would have otherwise required their involvement.

Summary

120. The NPV of this measure is **-£59.8m** over a 10-year appraisal period. It is negative as there are no monetised benefits.

Measure 2: Automatic Restriction of the Exercise of Parental Responsibility where a child is born of rape

Methodology

121. To derive the cost estimates for this measure, we have had to make a series of assumptions about how it will operate. The overall impact of these assumptions is that there is considerable uncertainty concerning these costs.

Volume of Offenders

122. For the purposes of this IA, we have estimated that up to 20 offenders would be convicted of rape under the appropriate circumstances each year. This estimate is based on the number of offenders sentenced for rape under section 1 of the Sexual Offences Act 2003¹⁶ and an estimate of the proportion of female rape victims that report experiencing a pregnancy as a result of rape each year.¹⁷ There are considerable uncertainties with this estimate and we anticipate that this is likely to be an overestimate given that not all victims will carry a child to term for a variety of reasons.
123. Of these 20 offenders, we do not know how many will acquire parental responsibility for the child in question. Biological fathers do not necessarily acquire parental responsibility (see paragraph 7), therefore, only a proportion of offenders will fall under this measure. We have therefore been unable to identify data or evidence to support an assumption for the proportion of offenders who hold parental responsibility in these circumstances. As a central estimate, we have assumed that half of the relevant offenders (i.e., ten per annum) will hold parental responsibility.

Expected Family Court Caseload

124. Officials anticipate that the family court will see an increase in the number of applications for private law children cases as a result of this measure. This increase will come from:
- a. the automatic route - offenders and/or families applying for the family court to consider varying or discharging the prohibited steps orders made by the Crown Court or pursuing further related orders, or
 - b. the local authority route - local authorities making an application to the family court, following a referral from the Crown Court, to consider the facts of the case and whether an order should be made.

¹⁶This uses a 10-year average (excluding 2020 and 2021 to account for reduced convictions during covid) from [Criminal Justice System statistics quarterly: June 2024 - GOV.UK](#)

¹⁷ The Crime Survey of England and Wales found that across the 2017 and 2020 cohorts, 3.6% of female victims of rape or assault by penetration reporting experiencing pregnancy as a result of the offence [Nature of sexual assault by rape or penetration, England and Wales - Office for National Statistics](#)

125. However, it is not possible to estimate how many cases will enter the family court through each route. We estimate the costs to be broadly similar under both processes and so we assume that all cases, where the offender holds parental responsibility for the child in question, will result in a family court case under either option.
126. As outlined in paragraph 55, additional applications to the family court by the local authority will occur where an individual is acquitted of the rape offence on appeal. We do not anticipate that this will have a large impact on the costs of the measure due to the expected small numbers.

Costs

127. The increase in caseloads will have a direct impact on the costs for all agencies involved in these cases. As with measure 1, this measure is costed on the basis of the CAP and does not consider the cost implications on courts running the Pathfinder model. However, while costs will be incurred by the family justice system in the same way, given the different processes involved, some of the cost assumptions differ to those presented for measure 1.
128. The cost of this measure to HMCTS has been estimated using the cost of an average sitting day in the family court and an estimate of the average time it takes to dispose of a family law case. The cost of a family court sitting day includes assumptions for all the operational costs of the court required during the life of the case.
129. The cost to local authorities, Cafcass and Cafcass Cymru has been calculated using the estimated cost savings for local authorities if a family court case involved one fewer hearing. This cost includes all staff and legal costs involved in preparing for and attending a hearing. Whilst this estimate is based on public law children cases, the staff involved in private law applications at the local authority would be the same and so the costs incurred should be similar.
130. Some cases, under the automatic route, will not involve work by the local authority and may instead involve Cafcass in England and Cafcass Cymru in Wales. It is not possible to estimate the proportion of cases that will be heard by each agency, and so we have used the estimated costs to local authorities as the highest unit cost to estimate the overall cost impact. We have assumed that if the local authority is involved in a case Cafcass/Cafcass Cymru would not be.
131. The costs to the LAA have been estimated using the average cost of a legal aid certificate for a prohibited steps order application and the average cost of a legal aid certificate for an application to vary/discharge a prohibited steps order. It is unknown whether any family court case would mirror proceedings for either a prohibited steps order application or an application to vary/discharge an existing order, so our central estimate takes the midpoint of the two average costs (£5,100 per certificate). There will also be additional administrative time required from the LAA to process the additional claims.
132. All of the costs associated with measure 2 assume that the application to the family court by the local authority results in a prohibited steps order being made, per the intention of the measure.

Costs of Measure 2

Monetised costs

Legal Aid Agency

133. The increase in private family law cases that may be eligible for legal aid is estimated to result in extra legal aid costs of £0.1m per annum at steady state. The increase in applications for legal aid is estimated to incur a small additional operational cost for the LAA (£1000). This cost is based on the assumption that the family court cases closely mirror existing prohibited steps order cases in which legal aid certificates are granted. If the new cases are considerably more complex than existing cases these costs may be an underestimate.

HMCTS

134. The increase in private law children applications will result in an additional cost to HMCTS for the family court to hear the additional cases. There will also be a small administrative cost for HMCTS to process the new orders made at the Crown Court. It is anticipated that these costs will be minimal as this process will create an ancillary order to a main service. In total, it is estimated this will cost an additional £0.03m for HMCTS.
135. There may be additional costs to HMCTS through an increase in returning applications where offenders, or families, make additional applications to court after the initial family court order. However, we have no way to estimate the number of additional returning cases this measure will create and so have been unable to monetise this potential cost.

Local Authorities and Children and Family Court Advisory and Support Services (Cafcass/Cafcass Cymru)

136. The expected increase in applications will likely result in an increase in workload for local authorities and Cafcass/Cafcass Cymru. This would come about either through local authorities bringing cases to the family court under the local authority route, or Cafcass/Cafcass Cymru being ordered by the family court to undertake work under the automatic route. We have assumed that if the local authority is involved in a case Cafcass/Cafcass Cymru would not be.
137. At steady state it is estimated that that this increase in applications could cost £0.1m across all these agencies. This cost is based on the assumption that the family court cases will closely mirror existing prohibited steps order cases. However, if the new cases are considerably more complex than existing cases these costs may be an underestimate. Additionally, we anticipate the costs to agencies under the automatic referral route to be lower and so the more cases that follow this route the lower the costs may be.

CPS and Police

138. There may be a small administrative cost for the CPS and/or police to collect information on the offender's parental responsibility and to inform victims about what to expect if a prohibited steps order or referral to the local authority is made. It is anticipated that these additional costs will be minimal as they should occur alongside existing practice.

Total

139. Based on the above, it is anticipated the cumulative monetised costs for this measure will be around £0.2m a year for agencies in England and Wales.

Non-monetised costs

Offenders or families of offenders

140. Under the automatic route, there may be costs to offenders, or their family on their behalf, if they choose to apply for the family court to vary or discharge the prohibited steps order. Under the local authority route, there may be costs to offenders if they choose to respond to any application made by the local authority. Offenders who are not eligible for legal aid can either choose to represent themselves in court or to fund their own legal representation.
141. In some cases, the offender may be dissuaded from making an application for consideration of the case by the family court or responding to an application from the local authority if they are not eligible for legal aid. Alongside these legal costs, offenders who make an application to court directly may be required to pay or contribute towards the court fee for the application.

Victim Mother

142. The victim mother may incur costs through their involvement in family court cases. This may be due to the mother responding to an application from the offending father, being made a party to an application from the local authority or, in some circumstances, making an application to the family court themselves if they feel this is best for their child. In all of these situations mothers may face financial (such as the costs of legal representation) and emotional costs. Where the mother is the applicant, they may also be required to pay or contribute towards the court fee.
143. The emotional cost of a family court case may be particularly high for the mother given their involvement as a victim in emotional and traumatising criminal court proceedings. These costs will be additional to the emotional cost of the offence itself and raising a child conceived by rape.
144. However, it is anticipated any costs (financial and emotional) to a mother would be lower than under the current scenario where they would be required to make an application to the court themselves if they wanted to restrict the offender's exercise of parental responsibility.
145. The father would still be required to financially support the child through child maintenance. There should be no additional financial burden on the mother to raise the child as a result of this measure.

Victim children

146. We do not anticipate any direct financial costs to victim children to make or respond to an application to vary the prohibited steps order. In most cases, we anticipate that such children would be too young to make such an application directly. Means-free legal aid is available to children who meet the merits test in relation to any family court proceeding that may occur in these cases. This would be where the child is made a party to proceedings by the court or the child is granted leave to apply.
147. Children may have complex emotions about their relationship with an offending parent, even when they are born as a result of that parent's offence. There may therefore be some emotional cost to victim children of their offending parent having their parental responsibility restricted.

148. Family court cases can be complex and stressful for children, and there may be additional emotional cost to victim children of any family court case that occurs as a result of this measure. Children can be affected by family court cases even if they are not aware the proceedings are ongoing, perhaps due to their age. This can occur through the impact on their mother's ability to parent due to ongoing proceedings. This could compound any trauma they have already experienced. It is not possible to monetise this cost.

Siblings of victim children

149. This measure will not restrict the parental responsibility of the offender for any children who were conceived consensually. Nevertheless, there may be costs to the sibling(s) of victim children. This may be where they become involved in a family court application made by the offender or the local authority, or result from the knock-on implications of any order or family court case involving their sibling.
150. We do not anticipate any direct financial costs to sibling children if they are involved in any family court case as a result of this measure. All children involved in a family court application will be eligible for legal aid in the same way, irrespective of whether they were the direct victim of the offence or not.
151. Family court cases can be complex and stressful for children, even if they themselves are not subject to the application. Therefore, there may be additional emotional cost to children of an ongoing family court case. This may compound any stress or trauma created by the offence against their mother or the criminal proceedings.

Benefits of Measure 2

Non-monetised benefits

Child victims

152. Children who are direct victims of the offender will be protected from the ongoing involvement of the offender in their life and from the ongoing control of those children's lives through the offender's exercise of parental responsibility.

Victim Mother

153. This measure will help protect the victim mother and the child born as a result of the rape from direct potential ongoing control of their lives through the offender's exercise of parental responsibility. This will help support the mothers emotional and psychological wellbeing and their recovery following the offence.
154. Additionally, the victim mother and the child born as a result of rape will be protected, financially (legal costs and court fees) and emotionally, from being required to make an application to court to restrict the offender's ability to exercise their parental responsibility.
155. While this measure does not cover any other children the offender has parental responsibility for, where the process involves a referral to the relevant local authority and an application to the family court the court will be able to consider more tailored orders, potentially also restricting the exercise of parental responsibility for other children the offender holds parental responsibility for, further limiting the scope for the offender to exert control in the victim parent's life.
156. It is not possible to estimate the financial benefit for victim parents who would otherwise have been required to make a prohibited steps application to court themselves.

Summary

157. The NPV of this measure is -£1.2m over a 10-year appraisal period. It is negative as there are no monetised benefits.

Measure 3: Update the routes to provide victims with information about their offenders' release from prison

Cost of Measure 3

Monetised Costs

HMPPS

3a) Bring existing operational schemes into the Victim Contact Scheme

158. The Bill will amend legislation to bring existing operational schemes into the Victim Contact Scheme, meaning victims currently served by different operational schemes, such as the Victim Notification Scheme, will be served by the Victim Contact Scheme. In practice, this change means that victims of stalking and harassment offences where the offender is detained in hospital under the Mental Health Act 1983 will now be offered a service.
159. This will have resource implications for Victim Liaison Officers, calculated as follows:
- a. Using HMPPS administrative data we estimate this will lead to an extra 70 victims needing to be contacted each year.
 - b. Each case is assumed to require 4.92 hours of Victim Liaison Officers time and 2.08 hours of administrator time at a cost of £39.40 and £24.80 an hour, respectively.
160. By applying these additional workload assumptions, we estimate the cost of expanding the scope expanding the Victim Contact Scheme to victims of offenders detained in hospital to be £0.02m per year.

3b) Give victims a clear route to information about their offender's release

161. The Bill will give all victims a clear route to request information about their offender's release, which will be provided to eligible victims via a victim helpline on their request. This helpline will be available to victims of specified offences, victims of offences committed as part of perpetrating domestic abuse, or victims otherwise considered to be at risk of physical or psychological harm without information relating to their offender's release, where appropriate.
162. Given uncertainty about the levels of use of the helpline, we have estimated the impacts of this measure using three different scenarios:
- The low estimate assumes 17,000 additional enquiries to the helpline. This figure takes the observed Unwanted Prisoner Contact helpline pilot percentage increase in enquiries after its promotion and applies it to current observed enquiries to the victim helpline. It assumes all enquiries are made via email, taking 11 minutes each. As the Unwanted Prisoner Contact helpline is a route for victims to find out information about an offender in custody, we have used this as a proxy for assuming victim requests about other information including release.

- The best estimate applies observed helpline data showing that 51% of victims contact the helpline via telephone and 49% via email to the estimated 17,000 additional enquiries.
- The high estimate assumes that all victims who are currently not eligible for both the Victim Notification Scheme and Victim Contact Scheme (21,000) contact the victim helpline via telephone, taking on average 28 minutes.

163. Applying the £24.30 hourly salary of a Band 3 staff member to the number of additional enquiries described above, results in additional costs to HMPPS of £0.1-0.2m per year.

3c) Include a new definition of a victim

164. This measure will include a new definition of 'victim' for the purposes of the scheme, which will mean the Victim Contact Scheme and helpline can be provided to those directly subjected to criminal conduct, bereaved family members, children who have witnessed domestic abuse (considered victims in their own right as defined by the Domestic Abuse Act 2021), and persons born as a result of rape. In practice, the Victim Contact Scheme is already delivered to those directly subjected to criminal conduct and bereaved family members, but not to child witnesses of domestic abuse and persons born as a result of rape.

165. This measure will have a resource impact on victim liaison officers and on helpline operators:

- Using 2022-2024 prisoner release volumes with a domestic abuse flagged offence and applying ONS data on the number of households with dependent children as well as the associated opt-in rates, we estimate the total number of child witnesses of domestic abuse that would be contacted by the scheme in year 1 as 350, and 380 in steady state.
- For child witnesses of domestic abuse, given that some communication will take place in parallel and therefore does not duplicate work, we assume contacting a young adult or child will require 35% extra work for each case affected by the measure. We assume the opt in rate will be 70% for 16–18-year-olds and 30% for 12–15-year-olds.
- Each case is assumed to require 4.92 hours of Victim Liaison Officers time and 2.08 hours of administrator time at a cost of £39.40 and £24.80 an hour, respectively.

166. By applying the additional workload assumptions, we estimate the cost of expanding Victim Contact Scheme to child witnesses of domestic abuse to be £0.06m per year.

Total monetised cost of Measure 3

167. Therefore, the total estimated annual cost to HMPPS of Measure 2, combining the helpline expansion and the expansion of the Victim Notification Scheme to child victims and victims of offenders who are detained under a hospital order, is £0.2m¹⁸.

Benefits of Measure 3

Non-Monetised Benefits

¹⁸ Note the range is lost to rounding when combining the helpline and victim contact scheme expansion

168. Measure 3a recognises that regardless of whether an offender is detained in hospital or prison, the victim will be equally at risk of psychological and physical harm if they do not have access to information about the release of the offender. This will improve the physical and psychological safety of this cohort of victims and improve this cohort's trust and confidence in the Criminal Justice System.
169. Measure 3b recognises the risk of psychological and physical harm victims may experience if they do not know about the release of their offender and may increase trust and confidence in the criminal justice system.
170. Measure 3c recognises the impact that domestic abuse has on children as a cohort of victims. Additionally, it will recognise persons born as a result of rape as victims, although this cohort is so small the decision was taken not to cost this (see Cost of Measure 2 - Monetised Costs).

Summary

171. The NPV for measure 3 is estimated to be **-£2.0m** over the 10-year appraisal period. The NPV is negative as there are no monetised benefits.

Measure 4: Extending the powers of the Victims' Commissioner

Cost of Measure 4

Monetised Costs

Victims' Commissioner (MoJ)

172. We estimate this measure will require up to 3 FTE, of HEO grade, in the Victims' Commissioner's Office at a cost of £150,000¹⁹ per year. It is at the discretion of the Victims' Commissioner's Office to allocate this resource in whichever way they see fit.

Non-Monetised Costs

Criminal Justice Agencies, Police and Crime Commissioners and Inspectorates

173. The Victims' Commissioner may make recommendations to public authorities under their remit²⁰ in this new report. This measure may require resource from other criminal justice agencies to respond to recommendations. We assume these costs would be negligible.

Local authorities and social housing providers

174. We anticipate that any costs to any agencies subject to the duty to cooperate on antisocial behaviour will be negligible because they will only be expected to fulfil requests where it is appropriate and reasonably practicable for them to do so.

Benefits of Measure 4

Non-Monetised Benefits

Victims and witnesses

175. Having the Victims' Commissioner independently report on compliance with the Victims' Code and exercise their functions in individual cases which raise public policy issues will

¹⁹ Based on Ministry of Justice 24/25 average salaries, including on-costs and 20% optimism bias.

²⁰ Domestic Violence, Crime and Victims Act 2004 - SCHEDULE 9

improve oversight of the system. This will improve victim's and witness's trust and confidence in the criminal justice system.

Victims of Antisocial Behaviour

176. Enabling the Victims' Commissioner to access information on how agencies manage the antisocial behaviour Case Review process and legitimately scrutinise how they respond to antisocial behaviour through a victims' lens, publish analysis of what is happening in different areas and provide feedback will be an important tool to support and provide solutions to victims of antisocial behaviour.

Summary

177. The NPV of measure 4 is **-£1.3m** over a 10-year appraisal period. It is negative as there are no monetised benefits.

Measure 5: Non-disclosure agreements (voiding NDAs in relation to disclosures made by victims of crime about relevant criminal conduct)

Costs of Measure 5

178. The measure will apply to confidentiality clauses used in any context and for all crime types. Research and data on the use of NDAs is, however, limited as they are private contractual agreements. There is therefore little evidence or data collection on use of NDAs involving victims and direct witnesses of crime, or on the use of NDAs outside of the employment context. As such, it is not possible to quantify or monetise the number of NDAs in future that will need to be adapted under this measure.
179. We have therefore based our analysis on the employment context as, despite the limited data, we assess that a high proportion of the total number of NDAs are used in employment settings. While the measure applies more broadly, its impact outside employment contracts is expected to be negligible, with no evidence of challenge to these contracts through litigation.

Monetised Costs

180. No monetised costs have been identified for this measure. This is because we have assumed that few NDAs will include the clauses which would be voided by this measure as well-advised contractors would understand that, as per best practice set out in guidance by the Solicitors Regulation Authority and Advisory, Conciliation and Arbitration Service (Acas), NDAs should not prevent appropriate disclosures about criminal conduct, so it is unlikely that such agreements are widely used.
181. We believe that any additional regulatory burden arising from this amendment will be minimal as it will automatically render void the relevant clauses in any NDA to the extent that they seek to prevent the disclosures permitted under this measure without any action by businesses themselves. Any remaining regulatory impact is also likely to be captured within that identified by clause X in the Employment Rights Bill as, when employers are familiarising themselves with the relevant changes arising from that legislative change, they will simply add to that the changes being made by this measure.

Non-monetised Costs

182. Within the employment context, there may be some familiarisation costs to businesses (e.g. HR departments) and lawyers. For the reasons given in the previous paragraph, we assume that these costs will be minimal and will constitute business as usual expenses for such groups.

Benefits of Measure 5

Non-monetised Benefits

Victims of Crime: Wellbeing Benefits

183. The primary benefit of this measure is expected to be substantial wellbeing benefits to victims of crime. These are benefits that refer to improvements in individuals' overall quality of life that are not directly financial in nature.
184. The UK Parliament Women and Equalities Committee report (2019) provides compelling evidence of the harm caused by NDAs in discrimination and harassment cases. It notes that signing a confidentiality agreement in such circumstances can be a "traumatic experience" for individuals. Many individuals were said to have reported feeling 'silenced, isolated and unable to move on with their lives.' The report also documents how this silencing can prevent individuals from warning others or seeking support, thereby compounding their distress and prolonging the psychological impact.
185. Additionally, the effects of NDAs do not remain confined to the individual, they ripple outward, affecting family members, household dynamics, and even children's emotional environments. When a parent or partner is burdened by unresolved trauma and secrecy, it can strain relationships, reduce emotional availability, and increase household stress.
186. Allowing individuals to speak freely about their experiences can foster healing and promote resilience. It also empowers individuals to participate in support networks all of which would contribute to a healthier and more stable wellbeing.
187. This measure is also expected to generate broader societal benefits, including contributing to efforts to address violence against women and girls.

Victims of Crime: Economic Security

188. As mentioned in paragraph 152, we have based this analysis on NDAs used in employment contexts due to the limited data on NDAs in other contexts and our assumption that NDAs are most commonly used in an employment context.
189. Restricting the use of NDAs to allow victims of crime to speak freely about relevant criminal conduct could increase their economic security, especially in relation to NDAs signed in the workplace. Currently, people who sign an NDA as they leave a job where they have been a victim of crime can be prevented from disclosing the reasons for the departure. This can severely limit future job prospects, reduce earning potential, and disrupt long term career development. Workers, particularly women, ethnic minorities, and other marginalised groups, are disproportionately affected, often being pushed out of their industries entirely. It is worth noting that if victims of crime wanted the reasons for their departure to be kept confidential, they may still be able to request an 'excepted NDA', under which they would be unable to speak freely about the reasons.
190. The UK Parliament Women and Equalities Committee report (2019) provides clear evidence of the economic harm NDAs cause to workers in such situations. It notes that many individuals were 'unable to explain gaps in their CVs or why they had left a

previous job,' which directly impacted their ability to secure new employment. Academic research by Professor Lizzie Barmes (2022) further supports this, arguing that NDAs suppress the economic agency of workers, particularly those by underrepresented groups.

191. Benefits should arise if the victims of crime are able to speak about their experiences, seek redress, and remain in the workforce without fear of retaliation. This transparency supports fairer hiring and promotion practises, reduces career disruption, and helps ensure that workers are not penalised for reporting misconduct. Over time, these changes contribute to a more equitable and stable labour market, where workers can build secure, uninterrupted careers.

Businesses: Workplace Culture

192. NDAs can prevent workers from warning others or holding perpetrators accountable, allowing harmful workplace cultures to persist. A more transparent and accountable workplace culture may come about by restricting the use of NDAs for victims of crime. When issues cannot be easily concealed, businesses have a greater incentive to actively prevent criminal conduct from taking place. Such protections could lead to visible commitment from employers which would reinforce worker confidence in the organisation's care for their wellbeing. In turn, this would lead to the promotion of a workplace environment where workers are safer and feel safer, supported and empowered to raise concerns openly.
193. Fostering a transparent and safe culture could also benefit businesses in the form of reduced worker turnover, absenteeism and enhancing productivity. Workers will more likely stay at their firms and show greater productivity in a workplace where they feel safe.
194. Whilst not directly related to the proposed clause on voiding NDAs to the extent that they seek to prevent victims of crime from speaking about the conduct which made them a victim of crime, evidence from a Gallup poll highlights the broader cultural benefits of transparency in the workplace. The poll found that 65% of employees believed that greater transparency from whistleblowing positively impacted organisational ethics, and companies with a dedicated ethics officer were 35% more likely to respond effectively to whistleblower reports.

Lawyers

195. This measure will simplify and clarify the law with regard to the use of NDAs. This could bring efficiency benefits to the legal profession as the area should be easier for lawyers to understand and advise on.

F. Risks, Assumptions and Uncertainties

196. The above impacts have been estimated on the basis of a number of assumptions. As each of these assumptions are associated with some degree of uncertainty, there are risks associated with each estimate. Table 1 below sets out the main assumptions and the associated risks and uncertainties.

Table 1: Main assumptions, risks and uncertainties

Assumptions	Risk / Uncertainties
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Measure 1: Automatic restriction of the exercise of parental responsibility in cases of serious child sexual abuse

Local authority costs are based on an estimate of the costs to local authorities of one fewer hearing in a public law case. Under the local authority route, we do not know what the applications to court will look like, or how the court will handle these applications. We have assumed that all will result in a prohibited steps order per the aims of the measure. As a central estimate, we have assumed each case will involve between 1 and 2 hearings (1.5) for the local authority. With the high scenario involving 2 hearings and the low involving 1. We assume that any costs to Cafcass or Cafcass Cymru would be equivalent to those of the local authority and that only one organisation would be involved in a case.	If cases prove to be more complex or more straightforward than anticipated this will have an impact on the costs presented. If the cost for Cafcass or Cafcass Cymru to deliver these cases differs substantially from those estimated for the local authority, or cases require the involvement of more than one agency, this could have an impact on the costs presented.
To develop a yearly estimate of the number of offenders, we have taken a 10-year average from year ending June 2014, to year ending June 2024. We have excluded data from year ending June 2020 and year ending June 2021 to account for the lower number of criminal court cases concluded during Covid-19 pandemic. It is assumed that this average will remain constant in future years.	The costs of this measure may change if conviction and sentencing rates change over time. However, this is not something we have been able to account for in this IA.
It is difficult to predict the number of applications that will be brought to the family court to consider the circumstances of the case. As a central estimate, we assume that half of the potential cases will result in an application to the family court. As these offences are considered by the court to be very serious, we anticipate a maximum of 75% and a minimum of 25% potential cases will result in an application to the family court.	These assumptions, and therefore the overall cost of the measure, are highly uncertain as they are dependent on the behaviour of offenders and families.
In certain situations, the court may determine it is not in the interests of justice for the order to restrict the exercise of parental responsibility to be made. We have no information available on the likelihood of these situations and so make no assumption about the proportion of cases that will fall into this scenario.	We do not expect the interest of justice exception to apply in many cases and do not expect this to have an impact on the estimates provided.
We assume that that 78 per cent of offenders sentenced for four years or more for a serious sexual offence committed against a child hold parental responsibility for a child under the age of 18. This is based on estimates of prisoners with children.²¹	The proportion of prisoners with children may overestimate the number of individuals sentenced who hold parental responsibility because not everyone who is recorded as having a child will hold parental responsibility. In addition, sexual offenders tend to be older than the average prison population

²¹ [Estimates of children with a parent in prison - GOV.UK](https://gov.uk/estimates-children-parent-prison)

	and so this overall average may not apply well to the population of offenders covered by this provision.
We assume there will be more than one case per offender on average. This is to account for the number of offenders who have a child with more than one partner, which we expect to be treated separately by the family court. We have drawn on estimates of multi-partner fertility in making this assumption. ²²	Offenders may be more or less likely to have children with more than one partner than the average population and so this estimate may not reflect well on the average number of cases per offender. Over time, the number of individuals with children from more than one partner may increase and so the total number of cases coming to family court may increase over the lifespan of this policy. This has only a small impact on the overall costs, so we do not expect this to have an impact on the estimates provided.
The costings do not consider the likelihood of cases returning to court on more than on occasion after the initial application for the family court to review.	It is likely that some cases will return to court on more than one occasion. This may result in these cost estimates being higher than anticipated.
The costs presented assume that all potential family court applications are new to the system, and no case was previously open to, or would have subsequently been open to the family court.	This may result in an overestimate of the total costs if cases would have already come to court or efficiencies are created through this measure.
It is not possible to estimate the proportion of individuals who would be eligible for legal aid in the new cases. As a central estimate, we have assumed between one and two claims (1.5) per case. As a reasonable high scenario, we have assumed that one person making an application for and one person responding to the application would be eligible for legal aid. As a low scenario, we have assumed that only one person in each case would be eligible for legal aid.	Legal aid fees are one of the main drivers of overall cost. If legal aid eligibility is considerably higher or lower than estimated the overall costs of the policy will change substantially. In addition, the unknown complexity of the new applications for legal aid adds uncertainty to the Legal Aid Agency administrative cost, although these are significantly less than the legal aid fund costs.
As a new measure in this area, there is no comparable case type to estimate the work that will be required by the family court to dispose of these cases. We have therefore used a single estimate for the time required for	If cases prove to be more complex or more straightforward than anticipated this will have an impact on the costs presented.

²² The research found that amongst those born in Britain in 1970, 12–14% of men and 15–18% of women had a child with more than one partner (multi-partner fertility) by age 42. For most people this was having children with two different coresidential partners. [Educational Gradient of Multi-partner Fertility: First Estimates for the UK | European Journal of Population \(springer.com\)](#)

HMCTS to dispose of these cases. This is based on the average disposal rate for private family law.	
We have used indicators of complexity to establish a high and low scenario for the amount of time required for Cafcass, Cafcass Cymru and local authorities to deliver their work on these cases. As sentencing data is presented at a national level for England and Wales, it has not been possible to establish the proportion of cases that will be delivered by Cafcass, Cafcass Cymru or the local authority. Therefore, we have used cost and time estimates from Cafcass and assumed these apply equally to the other organisations. In standard private law children cases, not all cases will involve work from Cafcass, Cafcass Cymru or the local authority. However, given the nature of these cases we assume all will involve some form of social work involvement.	If cases prove to be more complex or more straightforward than anticipated this will have an impact on the costs presented. If the cost for local authorities or Cafcass Cymru to deliver these cases differs substantially from Cafcass, this could have an impact on the costs presented.
Measure 2: Automatic restriction of the exercise of parental responsibility where a child is born of rape	
The volume of offenders sentenced for rape where a child has been conceived as a result of that offence have been estimated using sentencing statistics provided by 'Criminal Justice System Statistics: Outcomes by Offence data tool'²³ and an estimate of the proportion of sexual assaults by rape or penetration of a female victim that result in a pregnancy based on data from the 'nature of sexual assault by rape or penetration' module in the CSEW from 2017 and 2020.²⁴	There is considerable uncertainty over these estimates. The CSEW covers reports of rape and sexual assaults experienced by victims, not just those that go on to be charged or successfully prosecuted. We do not know if the proportion of these offences that results in pregnancy changes at different stages of the criminal justice system. For example, discovering they are pregnant may make a woman more or less likely to report their offence to police or an offence more or less likely to result in conviction. In addition, we do not know the proportion of these pregnancies that result in the birth of a live child.
To develop a yearly estimate of the number of offenders, we have taken a 10-year average from year ending June 2014, to year ending June 2024. We have excluded data from year ending June 2020 and year ending June 2021 to account for the lower number of criminal court cases concluded during the Covid-19 pandemic. It is assumed that this average will remain constant in future years.	The costs of this measure may change if conviction and sentencing rates change over time. However, this is not something we have been able to account for in this IA. The data is presented at an aggregate level and includes counts of offenders sentenced for attempted rape which is not

²³ [Criminal Justice System statistics quarterly: September 2024 - GOV.UK](#)

²⁴ [Nature of sexual assault by rape or penetration, England and Wales - Office for National Statistics](#)

	included in this measure. It is not known what proportion of offenders are sentenced for this offence and so the estimates presented are likely an overestimate.
It is not possible to estimate the number of offenders who are sentenced for rape, where a child is conceived as result of the offence, who hold parental responsibility for that child. As a central estimate, we assume that half of the potential offenders will hold parental responsibility. As unmarried fathers do not receive parental responsibility automatically, we do not believe that all offenders convicted in these circumstances would hold parental responsibility. Therefore, we anticipate a maximum of 75% and a minimum of 25% potential cases will result in an application to the family court.	These assumptions, and therefore the overall cost of the measure, are highly uncertain.
It is not possible to estimate how many cases will enter family court through the automatic route or the local authority route. We estimate the costs to be broadly similar under both processes and so we assume that all cases, where the offender holds parental responsibility of the child in question, will result in a family court case under either option.	There may be some cases that fall under the automatic route that do not come to the family court. This would be where no application is made for the family court to consider the prohibited steps order made at sentencing. This would reduce the costs estimated.
In certain situations, the court may determine it is not in the interests of justice for the order to restrict the exercise of parental responsibility to be made. We have no information available on the likelihood of these situations and so make no assumption about the proportion of cases that will fall into this scenario.	We do not expect the interest of justice exception to apply in many cases and do not expect this to have an impact on the estimates provided.
The costings do not consider the likelihood of cases returning to court on more than one occasion after any initial application to the family court.	It is likely that some cases will return to court on more than one occasion. This may result in these cost estimates being higher than anticipated.
The costs presented assume that all potential family court applications are new to the system, and no case was previously open to, or would have subsequently been open to the family court or local authorities.	This may result in an overestimate of the total costs if cases would have already come to court or be open to local authorities.
It is not possible to estimate the proportion of individuals who would be eligible for legal aid in the new cases. As a central estimate, we have assumed an average of between one and two claims (1.5) per case. As a reasonable high scenario, we have assumed that one person making an application for and one person responding to the application would be eligible for legal aid.	Legal aid fees are one of the main drivers of overall cost. If legal aid eligibility is considerably higher or lower than estimated the overall costs of the policy will change substantially. In addition, the unknown complexity of the new applications for legal aid adds uncertainty to the Legal Aid

As a low scenario, we have assumed that only one person in each case would be eligible for legal aid. This is based on the assumption that cases under the local authority route will involve an application for a prohibited steps order.	Agency administrative cost, although these are significantly less than the legal aid fund costs.
The average cost of each legal aid claim is determined based on estimates of the average cost of a claim for a prohibited steps order and the average cost of a claim to vary or discharge a prohibited steps order. Our central estimate assumes a mid-point between these two costs. This assumes that cases under the local authority route will involve an application for a prohibited steps order.	Legal aid fees are one of the main drivers of overall costs. If applications prove to be considerably more or less complex than current prohibited steps order cases, the overall costs of the policy will change substantially.
As a new measure in this area, there is no comparable case type to estimate the work that will be required by the family court to dispose of these cases. We have therefore used a single estimate for the time required for HMCTS to dispose of these cases. This is based on the average disposal rate for private family law.	If cases prove to be more complex or more straightforward than anticipated this will have an impact on the costs presented.
Local authority costs are based on an estimate of the costs to local authorities of one fewer hearing in a public law case. Under the local authority route, we do not know what the applications to court will look like, or how the court will handle these applications. We have assumed that all will result in a prohibited steps order per the aims of the measure. As a central estimate, we have assumed each case will involve between 1 and 2 hearings (1.5) for the local authority. With the high scenario involving 2 hearings and the low involving 1. We assume that any costs to Cafcass or Cafcass Cymru would be equivalent to those of the local authority and that only one organisation would be involved in a case.	If cases prove to be more complex or more straightforward than anticipated this will have an impact on the costs presented. If the cost for Cafcass or Cafcass Cymru to deliver these cases differs substantially from those estimated for the local authority, or cases require the involvement of more than one agency, this could have an impact on the costs presented.
Under the local authority route, victims must consent to the referral. We do not have an estimate of how many victims will grant this consent and so assume that all will.	If victims do not consent to this referral, it may reduce the costs of the measure.
Measure 3: Updating routes to provide victims with information about their offenders' release.	
Measure 3c will result in an increased workload (for child witness cases) of 35%. The opt-in rate will be 30% for 12–15-year-olds, and the observed Victim Notification Scheme opt-in rate of 70% for 16-18-year-olds	There is uncertainty in how much extra work child witness cases will create, resulting in a wide range of costs. However, given the volumes involved, any changes to the amount of work required per case will have a limited impact on the NPV.

Households in which more than one child was a witness to domestic abuse will only receive contact from one Victim Liaison Officer.	Measure 3c assumes one Victim Liaison Officer per household, if this were to differ costs associated with certain cases could be duplicated.
Prisoner release volumes stay constant after year 2.	It is likely that release volumes will vary over time. This will impact the number of individuals on the contact schemes over the 10-year appraisal period and hence the resource and costs required.
For measure 3a, the increased volume to the Victim Notification Scheme for victims of offenders detained under the Mental Health Act on unrestricted orders will be negligible. NHS England data shows < 31 eligible cases per year. This increase should be captured within the optimism bias uplift.	If the number of eligible cases were to be significantly higher than this, the costs would increase.
The High scenario is the maximum cost of the measure and assumes all non-Victim Notification Scheme/Victim Contact Scheme eligible prisoners associated victims called into the victim's helpline. The low scenario applies the percentage uplift in enquires experienced under the unwanted prisoner helpline (during its expansion) to the victim's helpline to estimate the additional number of enquiries.	There is uncertainty in many additional enquiries will be made to the helpline, therefore, a range of costs have been presented. Including covering the maximum cost of the measure. With maximum coverage, the helpline costs £0.2m per year, so there is a limited risk in underestimating demand.
The time taken to respond to an email and telephone enquiry is 11 mins and 28 mins respectively.	There is a risk that enquiries may be more complex and therefore take longer to deal with.
For measure 3b, in August 2024 the proportion of enquiries to the victim's helpline was 41% and 51% via email and telephone, respectively.	These proportions are from a snapshot in August and therefore could vary over time, influencing variation in costs.
Measure 4: Extending the power of the Victims' Commissioner	
It is assumed the combination of measures 4a, b and c will require up to 3 FTE in the Victims' Commissioner's Office.	There is uncertainty in the resource that the VCO will require to deliver these policy measures. We consider this risk to be low.
The Victims' Commissioner's Office receives c.90 pieces of correspondence per month, they have indicated they expect this to rise significantly should it become known that the Victims' Commissioner has an ability to exercise their functions in relation to individual cases. An exercise with HMCTS case workers found it took 60 mins to read through a complaint and determine next steps, we would expect this to take Victims' Commissioner's Office staff longer given the need to	There is a risk that this measure could lead to an increase in correspondence to the Victims' Commissioner's Office. If this were to occur, more resource may be required to manage this. Whilst we estimate that this work would be carried out by 3 FTE of HEO grade, it is at the discretion of

signpost appropriately and escalate potential public policy issues to the Victims' Commissioner.	the Victims' Commissioner's Office to allocate this resource in whichever way they see fit.
No new burdens to local authorities or social housing providers arise from the new duty to cooperate with the Victims' Commissioner. This is because these agencies only need to comply with a request from the Victims' Commissioner to cooperate where it is appropriate and reasonably practicable for them to do so.	This is a very low risk assumption as local authorities and social housing providers can decide whether a request is appropriate or reasonably practicable to comply with.
Measure 5: Non-disclosure agreements (voiding NDAs in relation to disclosures made by victims of crime about relevant criminal conduct)	
Assumptions around the hours it will take for lawyers, HR staff and businesses to familiarise themselves with the policy.	The costs are highly sensitive to the amount of time taken for familiarisation. If it were to alter, the costs could change significantly. These estimates have also been used in previous, similar legislation.
There are 174,137 practicing solicitors in England and Wales.	This is the number of practicing solicitors (those holding practising certificates) as calculated by the Solicitors Regulation Authority figures from August 2025.
We assume negligible impact on Employment Tribunals.	There is a risk that this legislation could increase demand on Employment Tribunals. With the potential to avoid reputational damage from allegations of criminality being removed as a result of the measure, employers may be less likely to offer to resolve a case through a settlement agreement. If an employee does not meet the criteria for an 'excepted NDA', they may be more likely to seek to settle an issue in an Employment Tribunal. This is because the employee may believe that they can get a better settlement via an Employment Tribunal. We assume the risk of this materialising is low as victims may still be able to use excepted NDAs, which will be defined in regulations. The impact on Employment Tribunals will be kept under review.

We assume negligible impact on the civil courts.	Given that NDAs are often used in sensitive cases which carry reputational risks to one of the parties, it is reasonable to assume that even where there are challenges or disputes the parties will be strongly incentivised to seek settlement at the earliest possible opportunity, rather than taking the case to a civil court in pursuit of a defamation claim. Civil actions to enforce NDAs often relate to commercial activities and breaches (such as client intelligence, intellectual property) which means the subset involving allegations of a criminal offence form only a small part of the likely total of cases. Therefore, the impact of the measure on civil courts is likely to be negligible.

G. Wider impacts

Equalities

197. An Equality Impact Assessment has been completed and will be published alongside the draft Bill and this Impact Assessment.

Better Regulation

198. These measures are exempt from the Better Regulation Framework.

Environmental Impact

199. We expect there to be no environmental impact as a result of the recommended options.

Families Test

200. The Bill is expected to have positive impacts on families and especially those where a child has been subjected to serious sexual abuse by a parent. Although, there may be negative impacts on offending parents, through the restriction of their ability to exercise their parental responsibility, this is justified in order to protect the welfare of direct and indirect victim children.

H. Monitoring and Evaluation

201. The legislative measures detailed above will be commenced by regulations once the Government Departments and other organisations required have concluded the relevant preparations to accommodate the operational functionality of these changes. Further announcements about the timings of the implementations will be made in due course following Royal Assent.

202. The government will monitor these measures following implementation.

Annex A:

The following offence categories have been included in the analysis for Measure 1. These are categories of offences, and this does not represent a comprehensive list of all detailed offences included within this measure:

- 17A.1 Sexual assault on a male - penetration
- 17A.2 Sexual assault on a male
- 17B.1 Sexual assault of a male child under 13 - penetration
- 17B.2 Sexual assault of a male child under 13
- 19C Rape of a female aged 16 or over
- 19D Rape of a female aged under 16
- 19E Rape of a female child under 13 by a male
- 19F Rape of a male aged 16 or over
- 19G Rape of a male aged under 16
- 19H Rape of a male child under 13 by a male
- 20A.1 Sexual assault on a female - penetration
- 20A.2 Sexual assault on a female
- 20B.1 Sexual assault of a female child under 13 - penetration
- 20B.2 Sexual assault of a female child under 13
- 21.1 Sexual activity with a child under 13 - indictable only
- 21.3 Sexual activity with a child under 13 - offender aged 18 or over or age of offender unspecified - triable either way
- 22.1 Sexual activity involving a child under 16 - indictable only
- 22.3 Sexual activity involving a child under 16 - offender aged 18 or over - triable either way
- 22A.1 Causing sexual activity without consent - penetration
- 22A.2 Causing sexual activity without consent - no penetration
- 23.1 Familial sexual offences (incest) with a child family member aged under 13 - indictable only
- 23.3 Familial sexual offences (incest) with a child family member aged under 13 - offender aged 18 or over - triable either way
- 23.4 Familial sexual offences (incest) with a child family member aged 13 to 17 - indictable only
- 23.6 Familial sexual offences (incest) with a child family member aged 13 to 17 - offender aged 18 or over - triable either way
- 71.1 Abuse of children through prostitution and pornography - indictable only
- 71.2 Abuse of children through prostitution and pornography - triable either way
- 73 Abuse of trust- sexual offences
- 86.1 Taking, permitting to be taken or making, distributing or publishing indecent photographs or pseudo photographs of children
- 86.2 Possession of indecent photograph of a child
- 88A Sexual grooming