

<b>Title:</b> Victim and Witness Consultation Response <b>IA No:</b> MOJ156 <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> Home Office, Scottish Government, HM Treasury, Crown Prosecution Service, HM Courts and Tribunals Service, HM Prison Service, Criminal Injuries Compensation Authority, First Tier Tribunal (Criminal Injuries Compensation),	<b>Impact Assessment (IA)</b>				
	<b>Date:</b> 02/07/2012				
	<b>Stage:</b> Consultation Response				
	<b>Source of intervention:</b> Domestic				
	<b>Type of measure:</b> Other				
<b>Contact for enquiries:</b> victimsconsultation@justice.gsi.gov.uk					
<b>Summary: Intervention and Options</b>					<b>RPC Opinion:</b> N/A

Cost of Preferred (or more likely) Option					
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as	
£75m - £140m	N/Q	N/Q	No	NA	
<b>What is the problem under consideration? Why is government intervention necessary?</b> <p>The Government believes that it is a more effective use of available resources to fund services that meet victims' practical and emotional needs in the immediate aftermath of a crime than to fund payments for minor injuries for some victims.</p> <p>The Government believes that it is right to move from a culture of compensation funded by the tax payer to one of reparation funded by offenders. The Criminal Injuries Compensation Scheme (CICS) currently has an estimated caseload of £260m. The scheme must be sustainable in the future.</p> <p>The Government aims to ensure, through additional sums raised from offenders, that in the long run the annual amount spent on victims (across all types of crime) is not reduced.</p> <p>Voluntary sector organisations provide valuable support services for victims. However there has been no consistent strategic approach to commissioning these services.</p>					
<b>What are the policy objectives and the intended effects?</b> <p>To increase the amount of funding available for support services for victims, by increasing the amount raised from offenders.</p> <p>To reform the Criminal Injuries Compensation Scheme (CICS) to reduce the cost of the Scheme and make it more sustainable long term while targeting the available resources on those victims most seriously affected by their injuries.</p> <p>To make victims' services better targeted at those in need, and to ensure that support services for victims have a real positive impact on their well-being and that providers and funding bodies can be held to account.</p>					
<b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)</b> <p>Base Case: Do nothing</p> <p>Policy Reform: Implement the reforms in the Government response to the consultation "Getting it right for victims and witnesses":</p> <ol style="list-style-type: none"> <li>Develop a Commissioning Framework for support services for victims of crime in most need by (i) defining a set of categories that describe needs that may inhibit a victim's ability to cope and recover and that government funding should be used to meet, and (ii) developing a means of measuring the impact of a service (either on the victim's overall level of well-being, or, more specifically, on the victim's progress toward no longer having the particular need that service targets).;</li> <li>Have most government-funded services for victims commissioned locally by Police and Crime Commissioners. Commission specialist, low-volume services and some other services (e.g. national helplines) at national level;</li> <li>Increase funding for victims' services by increasing the Surcharge on fines and extend the Surcharge to conditional discharges, community sentences and custodial sentences. Increase the value of PNDs and use the revenue from the increase for the same purposes as the Surcharge;</li> <li>Use a maximum of £30m of revenue from the Department for Transport's proposed increase in Fixed Penalty Notices to increase funding for victims' services;</li> <li>Reform the Criminal Injuries Compensation Scheme to reduce the burden on taxpayers by focusing the scheme on victims in the greatest need; and</li> <li>Introduce schemes for making payments to eligible victims of overseas terrorism.</li> </ol>					
<b>Will the policy be reviewed?</b> It will be reviewed (for dates see Impact Assessments for individual proposals)					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes/No	< 20	Small Yes/No	Medium Yes/No	Large Yes/No

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		Yes/No			
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/Q	<b>Non-traded:</b> N/Q	

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

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

# Summary: Analysis & Evidence

# Policy Reform

**Description:** Implement the reforms in the Government response to the consultation "Getting it right for victims and witnesses"

## FULL ECONOMIC ASSESSMENT

Price Base Year 2011/12	PV Base Year 2011/12	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 75	High: 140	Best Estimate:

<b>COSTS (£m)</b>	<b>Total Transition (Constant Price)</b>	<b>Years</b>	<b>Average Annual (after Transition) (Constant Price)</b>	<b>Total Cost (Present Value)</b>
Low	165	4	45	<b>370</b>
High	325		90	<b>725</b>
Best				

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

Those eligible for the CICS: reduction in direct financial compensation paid under the Criminal Injuries Compensation Scheme to victims of crime and to witnesses to violent crime or to trespass on the railways (by on average £35m - £55m, or £40m - £60m in 2011/12 nominal terms, per year)

Government: increase in spending on victims' services (using revenue raised from increased motoring FPNs, £10m - £30m per year)

MoJ/HM Treasury/CPS (and other prosecutors): reduction in fine and court cost revenue (£0m - £5m)

NB: In addition to new Government funding for services (raised from increased motoring FPNs) offenders will pay £15m - £20m towards services for victims, but for the purposes of assessing the net impact of reforms we do not count the impacts of penalties imposed on offenders as costs

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

Victims of crime (in England and Wales): reallocation of funding to services for victims in the most need may reduce services for some other victims (though there will be an increase in overall funding for services); possible additional reductions in compensation due to changes to eligibility rules;

HM Treasury/Government: possible reduction PND revenue, possible additional reduction in fine revenue; payments to eligible victims of overseas terrorism

MoJ(HMCTS and NOMS): resource costs of developing outcomes framework and funding formula for local commissioning; additional enforcement work; possible increase in fine defaulters sent to prison, more PNDs challenged in court; possible increase in CICS appeals, appeals against decisions on payments to victims of terrorism

MoJ/Scottish Government (CICA) : cost of implementing and training staff in new scheme, increases in compensation paid in some cases, possible cost of defending additional internal reviews and appeals

CPS (and other prosecutors): additional reduction in cost revenue

Providers of support services: collecting information to measure outcomes; resources transferred to services providing effective services to victims in the most need; some resources spent on gathering evidence of need and the commissioning of services rather than front-line services

Police and Crime Commissioners: researching needs of victims and monitoring outcomes of services

Local Authorities and parents of juvenile offenders: possible Surcharge to pay

Other government departments and the NHS: possible costs due to CICS reforms, administrative costs associated with CICS eligibility requirements and payments to victims of terrorism overseas

<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price)</b>	<b>Years</b>	<b>Average Annual (after Transition) (Constant Price)</b>	<b>Total Benefit (Present Value)</b>
Low	195	4	60	<b>475</b>
High	365		100	<b>830</b>
Best				

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

Victims of crime (in England and Wales): increase in spending on victims' services of £25m - £50m per year  
Government: reduction in compensation paid under the Criminal Injuries Compensation Scheme by £35m - £55m (or £40m - £60m in 2011/12 nominal terms)

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

Victims of crime: better targeting of support from VCSE sector providers so victims with higher needs should receive more support (applies in England and Wales); clearer eligibility and application requirements and application process for the CICS; multiple injury awards paid for mental injury in the same way as physical injury; up front payment of some funeral expenses; increase in payments for future special expenses and loss of parental services due to reduction in discount rate; payments to eligible victims of overseas terrorism (applies to the UK)

Ministry of Justice/Scottish Government: additional reductions in compensation paid due to tightening of eligibility criteria

Providers of support services: increased funding; resources transferred to services providing effective services to victims in the most need

Police and Crime Commissioners: opportunity to shape local services for victims, and funding for commissioning activities including research and engagement

**Key assumptions/sensitivities/risks****Discount rate (%)**

3.5%

The impacts on victims of changes to support services assume there is scope to improve the allocation of resources for victims, and that the reforms will achieve this.

The increase in spending on victims' services depends on the revenue raised from increasing and extending the Surcharge, increasing the value of PNDs, and DfT's proposed increase in motoring FPNs. This is sensitive to: the level of increase in motoring FPNs (which depends on the outcome of DfT's consultation); payment rates for the Surcharge on different disposals, PNDs or motoring FPNs; the number of offenders given different disposals.

The impact on the MoJ, HM Treasury, and the CPS and other prosecutors is sensitive to the impact of changes to the Surcharge on the value of fines and cost orders imposed by sentencers and collected from offenders by HMCTS.

The reduction in compensation paid to victims of violent crime depends on the level of demand for compensation. The impact of the reforms on payments for loss of earnings is particularly uncertain.

The net impact on victims of the reforms depends on the relative value of spending on compensation payments to those who will no longer be eligible and the value of spending on additional services to those who will use them. We assume that spending on services is at least as valuable as spending on compensation.

The impacts of all reforms are assessed from a start date of July 2012. We assume reforms to the CICS apply to applications made after October 2012, and the increase and extension of the Surcharge applies to offences committed after October 2012, except those resulting in a custodial sentence in the magistrate's court (which is expected to apply from Summer 2014, subject to legislation). To allow for time between offence, sentencing and collection, we assume Surcharge reforms relating to fines, community sentences, suspended sentences, conditional discharges and juveniles will take 6 -18 months to impact on revenue. We assume that the Surcharge on immediate custodial sentences will take 2 – 3 years for Crown Court sentences and 18 months for magistrates' court sentences. We assume increases to PNDs and FPNs will be implemented from April 2013, and revenue is then received immediately.

**BUSINESS ASSESSMENT (Option 1)**

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/Q	Benefits: N/Q	Net: N/Q	No	NA

## Evidence Base (for summary sheets)

### Introduction

1. This impact assessment accompanies the Ministry of Justice's response to the consultation "Getting it right for victims and witnesses". The associated consultation response paper can be found at [www.justice.gov.uk](http://www.justice.gov.uk). This impact assessment is an overarching assessment of the reforms in the government response. Individual impact assessments have been prepared for each reform. These cover:
  - Quality and Outcomes in Support Services
  - Locally led commissioning of victim services
  - Increasing and extending the Victim Surcharge, and increasing the value of Penalty Notices for Disorder to fund victims' services
  - Using money raised from motoring Fixed Penalty Notices increased by the Department of Transport to fund victims' services
  - Reforms to the Criminal Injuries Compensation Scheme
  - Compensation for victims of overseas terrorism
2. State provision for victims and witnesses of crime takes a number of forms. Victims going through the Criminal Justice System are entitled to certain services, set out in the statutory *Code of Practice for Victims of Crime* ("victims' code"). The victims' code places obligations on criminal justice agencies to provide victims with a universal basic level of services and information, and an enhanced service to vulnerable and intimidated victims.
3. Central government also provides funding to a range of voluntary, community and social enterprise (VCSE) sector organisations to provide non-financial support for victims and witnesses of crime. This funding is allocated through a variety of mechanisms, and totals around £70m per year. Around £10m of this comes from offenders through the Victim Surcharge – a £15 surcharge payable on fines issued by the courts.
4. Thirdly, the government pays financial compensation to victims of violent crime in recognition of a sense of public sympathy for the pain and suffering of the victim. The amounts paid are determined by the Criminal Injuries Compensation Scheme, and may include compensation for lost earnings and special expenses, as well as a payment for pain and suffering tied to the nature of the injury.
5. This impact assessment relates to the reforms set out in the consultation response document. These are described in detail below.

### Problem under consideration

6. The reforms in this impact assessment are intended to address two main aspects of state provision for victims and witnesses of crime.
7. For all victims who might need support following a crime, voluntary sector organisations provide valuable services. However, there has been no consistent, strategic approach to commissioning and measuring the effectiveness of these services. Decisions about what to fund, where, and when, have often been taken in isolation by a range of decision makers without a consensus about the aims of providing support.
8. In addition, offenders do not contribute enough to the cost of services. The current Victim Surcharge is currently only imposed on offenders sentenced to a fine at a flat rate of £15, and provides around £10m of the approximately £70m that is spent on services for victims.
9. The Criminal Injuries Compensation Scheme is a demand led scheme which costs the Government over £200m per year. The Scheme has historically been underfunded, with funding allocated at the beginning of the year on occasion needing to be topped up later in the year. At the end of 2010/11 the tariff scheme had an estimated caseload of £260m,<sup>1</sup> more than the value of claims expected to come in every year, and more than the available annual budget for future

<sup>1</sup> In addition, CICA's accounts include a £128m estimated provision for cases that are assumed to have occurred but not yet been reported to CICA. Including unreported liabilities, the total tariff liability provision at the end of 2010/11 was £388m.

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years. A review of the scheme is well overdue and needs to recognise the current challenging financial climate. The scheme must be sustainable if it is to continue to offer timely compensation to victims in the long-term and provide a set of fair, realistic expectations.

10. In this context, the Ministry of Justice has undertaken a comprehensive review of the scheme, to consider the most effective use of resources. The government believes that providing support services (for victims of all types of crime) may produce more benefit than financial compensation for victims with minor injuries like sprained ankles or bruised ribs, for the same financial cost. However, for those affected by the most serious injuries and crimes, and for families bereaved by homicide, compensation payments should be protected as far as possible.

### Policy Objectives

11. The reforms have a number of objectives:

- To increase the amount of funding available for support services for victims, including by increasing the amount paid by offenders.
- To reform the Criminal Injuries Compensation Scheme (CICS) to reduce the burden on the taxpayer by focusing resources on victims in the greatest need
- To provide payments to British and EU/EEA residents of the UK, who are seriously affected as a direct result of being caught up in a terrorist attack overseas in the absence of financial recompense elsewhere.
- To make victims services better targeted at those in need, and to ensure that support services for victims have a real positive impact on their well-being and that providers and funding bodies can be held to account.
- To reduce the amount raised from tax payers and increase the amount raised from offenders to be spent on services for victims of crime, protecting the overall level of funding for victims.

### Policy reforms

12. This impact assessment covers a range of reforms:

- Develop a Commissioning Framework for support services for victims of crime in most need by (i) defining a set of categories that describe needs that may inhibit a victim's ability to cope and recover and that government funding should be used to meet, and (ii) developing a means of measuring the impact of a service (either on the victim's overall level of well-being, or, more specifically, on the victim's progress toward no longer having the particular need that service targets)
- Have government funded support services for victims of crime commissioned locally by Police and Crime Commissioners, except for specialist, low-volume services and nationally delivered services (e.g. helplines, a witness service), which would be commissioned nationally
- Increase funding for support services for victims of crime by making the Surcharge payable in cases where a court deals with an adult offender by way of: (i) a conditional discharge at a flat rate of £15; (ii) a fine at 10% of the fine value, with a minimum amount of £20 and a maximum cap for the Surcharge ordered on fines at £120; (iii) an adult community sentence at a flat rate of £60; (iv) a sentence of imprisonment, including where suspended, at £80 for a sentence of 6 months and below; at £100 for a sentence of over 6 months and up to 2 years; and at £120 for a sentence over 2 years. Also make the Surcharge payable when a court deals with a juvenile offender by way of: (i) a conditional discharge at a rate of £10; (ii) a fine or community sentence at a rate of £15; (iii) a custodial sentence of any length at a rate of £20; increase the value of PNDs by £10 on both lower and higher tier notices: the additional revenue will be spent on victim services
- Use revenue from the DfT's proposed increase in the level of Fixed Penalty Notices (FPNs) for motoring offences to increase spending on support services for victims and witnesses of crime by a maximum of £30m.
- Reform the Criminal Injuries Compensation Scheme to reduce the burden on the taxpayer by focusing resources on victims in the greatest need by:

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- Clarifying eligibility for the scheme and changing the scope of the scheme. Payments will not be made;
  - i) to railway employees who are mentally injured as a result of witnessing or being involved in the immediate aftermath of offences connected with trespass on the railway including suicide or attempted suicide,
  - ii) where a person has been the victim of an animal attack, unless the animal itself was used deliberately to inflict injury on that person,
  - iii) to third parties injured inadvertently by an act the sole purpose of which is suicide (clarification of current scheme) and
  - iv) as now, in the case of certain criminal offences to which the claimant has consented in fact but is deemed not to have consented as a matter of criminal law (clarification of current scheme)
- excluding those who cannot show they are ordinarily resident at the time of the incident in the United Kingdom with the exception of;
  - i) British Citizens and their accompanying close relatives
  - ii) EU and EEA nationals and their accompanying family members
  - iii) a national of a state party to the European Convention on the Compensation of Victims of Violent Crime,
  - iv) members of the Her Majesty's United Kingdom Armed Forces and their accompanying close relatives;
  - v) conclusively identified victims of trafficking and
  - vi) a person who has been granted asylum, temporary protection or humanitarian protection.
- requiring that an offence be reported to the police (rather than another body) as soon as reasonably practicable, and that the applicant cooperate so far as practicable in bringing the assailant(s) to justice;
- making awards to under 18s where previously it would have been deemed against their interest;
- excluding all of those with an unspent criminal conviction resulting in custody or a community order. In other cases an award will be reduced or withheld unless there are exceptional circumstances. Applicants with motoring offences for which the only penalty imposed was one or more of an endorsement, penalty points or a fine under Schedule 2 to the Road Traffic Offenders Act 1988 will be exempt from this provision and will not generally have their awards reduced. In fatal cases convictions of the claimant will be relevant but those of the deceased will not, except in exceptional circumstances. The conduct of the deceased will still be relevant. Payments should not be withheld or reduced solely because alcohol or drugs increased an applicant's vulnerability to attack;
- removing tariff bands 1 – 5 (less serious injuries);
- reducing payments by £1500 in band 6 to £1000, by £1800 in band 7 to £1500 and by £2000 in bands 8 – 12 (no change to bands 13 – 25);
- retaining fatal injury awards and awards for sexual assault and for physical abuse (including those in bands 1 – 5) at their current values;
- amending the tariff to better reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia injuries;
- no longer distinguishing between mental and physical injuries when calculating multiple injury awards;
- paying all applicants eligible for a loss of earnings award an annual flat rate payments equivalent to Statutory Sick Pay and not reducing awards to reflect an applicant's other sources of income. Loss of earnings will be paid only to those with no, or very limited, earning capacity. We would no longer pay for diminution of earnings;
- changing the funeral payments policy, enabling CICS claims officers to pay £2,500 up front to the deceased's estate and where the applicant can demonstrate that total costs are reasonable, make further funeral payments up to a total maximum of £5,000;
- removing the special expenses payments for private medical care not available on the NHS;
- introducing new discount tables for payments for future loss based on an underlying discount rate of 2.5% (the current rate is 4.5%)\*;
- increasing the onus on applicants to provide evidence for their case, while clarifying the application process by:
  - i) maintaining the existing time limit for applications for compensation (two years from the date of the incident) and introducing clearer rules on the time limits for applications from those who were children at the time of the incident;
  - ii) maintaining the onus on the applicant to make out their case, but clarifying what evidence the applicant will be required to provide as a minimum. This includes initial expert/medical evidence that an injury has been sustained;

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- iii) tightening the circumstances where CICA will meet the costs of obtaining expert (mainly medical) evidence including a new requirement that the applicant contribute up to £50 towards the cost of obtaining medical evidence in support of their claim either initially or when the final award is made and enabling CICA to deduct costs associated with medical expenses where an applicant misses appointments that CICA is paying for without reasonable excuse or wasted costs incurred when the applicant commissions additional medical evidence that is not required to determine the claim. ;
  - iv) Introducing new provision enabling a claims officer to defer a decision on an application where the applicant has been referred to a United Kingdom competent authority as a potential victim of trafficking in human beings or has made an application for asylum.
  - v) reducing the period for applicants to accept, or request a review of, their award from 90 to 56 days;
  - vi) extending the circumstances where repayment of all or part of the award may be requested to cover circumstances where it comes to light that the applicant had not cooperated in bringing their assailant to justice or the applicant deliberately misled the claims officer when making their application;
  - vii) when it becomes apparent that a claims officer has made an error on review, allowing CICA (with the agreement of the applicant) to withdraw the decision before the appeal is heard so that the appeal falls and a fresh decision can be issued;
  - viii) undertaking further consideration of how we might implement powers to recover money from offenders where criminal injuries compensation has been paid to their victims in a cost-effective way.
- Make arrangements for a compensation scheme under the provisions in the Crime and Security Act 2010 to make payments to eligible victims of overseas terrorism under the same categories as the revised<sup>2</sup> domestic Criminal Injuries Compensation Scheme and come into force at the same time as the revised domestic scheme. Make payments via an ex gratia scheme for eligible victims of terrorism overseas, which will run until the commencement of a statutory based scheme for victims. The ex gratia scheme was implemented in April 2012. Payments under the ex gratia scheme to do include payments for loss of earnings or special expenses, and are only made to victims who continue to have a disability as a direct result of their injuries.

### **Economic Rationale for intervention;**

13. The economic rationale for government intervention may relate to securing macroeconomic objectives, especially in relation to fiscal policy, as well as to microeconomic considerations. On the macroeconomic side the reforms in this Impact Assessment (IA) will contribute to reducing the scale of government expenditure (while increasing the contribution offenders make to funding victim support services). In addition to the policy rationale for reforming the CICS, these policies will contribute to the Government's objective of reducing the fiscal deficit.
14. On the microeconomic side the conventional economic rationale for government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to the more needy groups in society).
15. Together, the reforms in this impact assessment seek to address all three objectives.
16. **The reforms relating to the Surcharge, PNDs, FPNs and the CICS** are intended to rebalance funding for victims services so that in the long run, the annual amount spent on victims (across all types of crime) is at current levels, but there is both a reduction in net government expenditure and a redirection of resources from financial compensation payments for victims of more minor injuries toward non-financial support services better targeted to those victims who need it most;

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<sup>2</sup> Refer to the consultation response on CICS



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victims of the most serious crimes, the most persistently targeted and the vulnerable. Reducing net government expenditure will contribute to the macroeconomic objective set out above. Under the assumption that spending on support services (for victims of all types of crime) generates more benefit to victims than the same amount of spending on direct financial compensation (for victims of violent crime with more minor injuries), shifting resources from compensation to services will improve efficiency.

17. **Reforms that increase and extend the Surcharge** are also intended to improve fairness by increasing the amount paid by offenders towards support services for victims of crime and by ensuring more offenders pay a contribution towards the costs of supporting victims, with the level of contribution more proportionate to the seriousness of the sentence. Currently only offenders ordered by a court to pay a fine are also ordered to pay the Victim Surcharge. This is not a straightforward equity argument, since typically we do not place value on offender welfare when assessing impacts. Rather, it is based on the idea that members of society value having a justice system that delivers appropriate and proportionate penalties and reparation by offenders.
18. **Reforms relating to the commissioning of government funded support services for victims** are intended to improve both efficiency and equity. The proposals are in two parts. The first is to develop a commissioning framework for support services for victims of crime that defines the needs that may inhibit a victim's ability to cope and recover and that government funding should be used to meet, and that introduces a means of measuring the impact of a service. The second is to make local Police and Crime Commissioners responsible for commissioning all government funded support services for victims except specialist, low-volume services and those that are nationally provided (e.g. telephone help-lines). Moving responsibility for commissioning to a body with good local information, defining the needs that services should meet and developing a means of measuring impact should all mean that resources are better targeted at effective services that meet real needs – improving efficiency. (Note that Police and Crime Commissioners will have a choice whether to use the commissioning framework.) The proposals will also improve equity by making it easier to target resources at those in greatest need.
19. **Reforms to the CICS** are also intended to distribute resources more fairly, by excluding individuals with unspent criminal convictions (except in exceptional circumstances) and those who are not direct victims of violent crime, and also by focusing resources more tightly on victims of serious crimes and injuries, and the bereaved.
20. Terrorism is intended as a political statement and attack on society as a whole and has ramifications beyond those who are directly affected by it. **The introduction of schemes for making payments to eligible victims of overseas terrorism** are intended to show solidarity with British and EU victims who are part of our community and have been caught up in terrorist attacks overseas designated for the purposes of these schemes by making payments to those who have been seriously injured and who could not have reasonably anticipated a significant threat to their safety or security when travelling abroad.

### Affected Groups

- Victims and witnesses, including victims of terrorist attacks overseas
- Central government as a whole/HM Treasury
- The Ministry of Justice (MoJ) including its executive agencies HM Courts and Tribunals Service (HMCTS), and the Criminal Injuries Compensation Authority (CICA). Note the CICA is jointly funded by the MoJ and the Scottish Government.
- The Crown Prosecution Service (CPS) and other prosecutors
- Voluntary, Community and Social Enterprise (VCSE) sector providers of support services for victims and witnesses
- Police and Crime Commissioners
- Local Authorities
- Parents of juvenile offenders
- Other government departments and the NHS
- Personal Injury Lawyers
- Insurance providers.

### Costs and Benefits of Options

21. This IA is intended to bring together the impacts identified in the individual impact assessments associated with the component parts of the reforms in this IA. This section briefly describes the costs and benefits of the reforms for the affected groups identified above. More detail on the costs and benefits associated with a component reform are contained in the individual impact assessment associated with that reform.
22. For the most part, we do not have sufficient information to monetise the costs and benefits identified in this Impact Assessment. However, where this is possible estimates are provided. Again, further details are contained in the impact assessments for the individual reforms.

### Note on territorial application

23. The Criminal Injuries Compensation Scheme applies across England, Wales and Scotland, and the proposed reforms will therefore affect the relevant groups in all these areas. The introduction of a scheme for making payments to eligible victims of overseas terrorism will apply across the UK. The remaining reforms apply only to England and Wales.

### Base Case: Do nothing

24. Under this option provision for victims would be organised and funded in the same way as now.
25. Because the do-nothing option is compared against itself its costs and benefits and necessarily zero, as is its Net Present Value (NPV)<sup>3</sup>

**Policy Reform:** Implement the reforms in the Government response to the consultation “Getting it right for victims and witnesses”:

- a) Develop a Commissioning Framework for support services for victims of crime in most need by (i) defining a set of categories that describe needs that may inhibit a victim’s ability to cope and recover and that government funding should be used to meet, and (ii) developing a means of measuring the impact of a service (either on the victim’s overall level of well-being, or, more specifically, on the victim’s progress toward no longer having the particular need that service targets).
- b) Have most government-funded services for victims commissioned locally by Police and Crime Commissioners. Commission specialist, low-volume services and some other services (e.g. national helplines, the Witness Service) at national level.

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<sup>3</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

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- c) Increase funding for victims' services by increasing the Surcharge on fines and extending the Surcharge to conditional discharges, community sentences and custodial sentence. Increase the value of PNDs and use the revenue from the increase for the same purposes as the Surcharge
- d) Use a maximum of £30m of revenue from the Department for Transport's proposed increase in motoring Fixed Penalty Notices to increase funding for victims' services
- e) Reform the Criminal Injuries Compensation Scheme to reduce overall spending on taxpayer-funded financial compensation while focusing resources on victims in the greatest need and simplifying the scheme so that it is less resource intensive
- f) Introduce schemes for making payments to eligible victims of overseas terrorism. (Note that the ex gratia scheme was implemented in April 2012.)

26. *Timing Assumptions for monetised costs and benefits:* The estimated impacts of all reforms are based on a start date of July 2012. We assume reforms to the CICS apply to applications made after October 2012, and the reforms to increase and extend the Surcharge to apply to offences committed after October 2012, except for offences that result in an immediate custodial sentence in the magistrates' court. For these offences, the Surcharge reform is currently expected to be implemented in Summer 2014 (subject to legislation). We assume changes to PNDs and FPNs are implemented in April 2013 and revenue is then received immediately. To allow for time between offence, sentencing and collection, we assume Surcharge reforms relating to fines, adult community sentences, suspended sentences, conditional discharges and juveniles will take 6 -18 months from implementation to impact on revenue. We assume reforms relating to immediate custodial sentences take 30 months for Crown Court sentences and 18 months for magistrates' court sentences.

### Costs of option 1

#### *Costs to Victims and Witnesses*

- 27. The introduction of a commissioning framework (**reform 1(a)**) for support services for victims and witnesses may mean that government funding will be reallocated to those organisations that best achieve the desired outcomes. This may impose a cost on users of services that lose funding. In addition, to the extent that a common set of defined needs will be a compromise between those that are optimal for a diverse group of victims, changes in government funded services to meet the agreed needs may impose costs on victims. The size of these will depend on how heterogeneous the optimal outcomes are, and the extent to which current activities achieve these outcomes.
- 28. Moving to a system where most support services for victims and witnesses are commissioned locally by the Police and Crime Commissioner (**reform 1(b)**) is likely to result in resources being reallocated to services for victims assessed as the most in need of support. As a result, other groups of victims will not receive the same level of support they would receive under option 0. As some of the overall budget could be spent by the Police and Crime Commissioners on research into victims' needs to inform commissioning decisions, engagement with victims and other stakeholders and monitoring of services, the amount of government money providers receive to spend on services for victims may be lower.
- 29. The reforms to the CICS (**reform 1(e)**) will impose a cost in reduced tariff payments. The reforms for which we can monetise the impacts are estimated to reduce compensation by £40m - £60m per annum (in 2011/12 nominal terms). We assume that, as in the past, tariff payments will stay fixed in nominal terms (under either this option or the baseline). Therefore the real cost of these reforms (the difference between the amount of compensation received by victims following the proposed reforms and under the baseline) will decline in the future. There may be additional costs to victims from changes to the eligibility criteria for the CICS and the application process.
- 30. UK residents who do not qualify to apply for compensation under the scheme may currently take out travel cover which does not include exclusions relating to terrorist activity. If the introduction of publicly funded payments for eligible victims of overseas terrorism (**reform 1(f)**) meant that this type of cover was no longer provided by the insurance market, these UK residents would not be covered by the private or public sector in future.

*Costs to HM Treasury/government as a whole*

31. Increasing the Surcharge on fines for adult offenders and extending it to community penalties and custodial sentences (**reform 1(c)**) is likely to reduce fine income to HM Treasury. We estimate that the increase in the Surcharge on fines for adult offenders might reduce combined fine and cost revenue (accruing to HM Treasury, the MoJ and the CPS) by £0m - £5m per year in total. We are not able to monetise the impact of extending the Surcharge to other disposals on fine revenue.
32. Increasing the value of PNDs by £10 and using the revenue for the same purpose as the Surcharge (**reform 1(c)**) is likely to reduce PND income to HM Treasury.
33. Using a maximum of £30m of revenue from the Department for Transport's proposed increase in motoring Fixed Penalty Notices to increase funding for victims' services (**reform 1(d)**) means this money will not be available to be spent on other government activities. We estimate the cost of this at £10m - £30m.
34. Government will fund payments to eligible victims of overseas terrorism (**reform 1(f)**).

*Costs to MoJ (including its executive agencies HMCTS and NOMS and the CICA)*

35. Developing a Commissioning Framework for support services for victims of crime (**reform 1(a)**) will require the MoJ to research the categories of needs victims have and possible methods of measuring outcomes.
36. Having government-funded services for victims commissioned locally by Police and Crime Commissioners, except for specialist, low-volume services and nationally delivered services (e.g. helplines), (**reform 1(b)**) will require the MoJ to develop and update a formula to allocate funding to commissioners.
37. Increasing the Surcharge on fines for adult offenders and extending it to community sentences and custodial sentences (**reform 1(c)**) is likely to reduce fine income to the MoJ (though total revenue raised from offenders, including the Surcharge, is expected to rise). We estimate that the increase in the Surcharge on fines might reduce combined fine and cost revenue (accruing to HM Treasury, the MoJ and the CPS) by £0m - £5m per year in total. We are not able to monetise the impact of extending the Surcharge to other disposals on fine revenue.
38. Increasing the Surcharge on fines for adult offenders and extending it to conditional discharges, community sentences and custodial sentences, and increasing the value of PNDs (**reform 1(c)**) is likely to reduce compliance with financial impositions, which will increase HMCTS's enforcement workload. Any increase in non-payment of financial impositions may also increase the number of offenders imprisoned for default, which would impose costs on NOMS. The increase in PND value may also result in more offenders opting for trial rather than paying the PND, imposing an additional burden on HMCTS.
39. Reforming the CICS (**reform 1(e)**) may impose costs on MoJ (HMCTS) if there is an increase in applicant appeals as a result of the reforms, or an increase in civil damages cases (though note the scheme is already one of last resort). The MoJ/Scottish Government (CICA) will also incur any costs of training staff in the new scheme and possibly costs of defending any additional appeals. There may also be costs from payment of additional compensation due to no longer withholding awards from under 18s (where now it might be deemed against their interests), aligning the treatment of mental and physical injuries when calculating multiple injury awards, and the reduction in the discount rate used to calculate special expenses and loss of parental services awards. There may also be additional administrative costs from implementing provisions in the Criminal Injuries Compensation Act 1995 to allow CICA to issue recovery notices to offenders for the compensation paid to their victim and, if the amount is not paid, to initiate debt recovery action through the civil courts, though the decision to implement the provisions will depend on a process being designed that is expected to be cost effective.
40. Introducing schemes to make payments to eligible victims of overseas terrorism (**reform 1(f)**) may impose costs on MoJ (HMCTS) if there are appeals against the CICA's decision to the First Tier

## RESTRICTED

Tribunal, and subsequently to the High Court. The MoJ/Scottish Government (CICA) will also incur any costs of setting up the schemes and training claims officers in the rules.

### *Costs to the CPS (and other prosecutors)*

41. Increasing the Surcharge on fines for adult offenders and extending it to conditional discharges, community sentences and custodial sentences (**reform 1(c)**) is likely to reduce cost income to the CPS (and other prosecutors). The Surcharge takes priority over costs both at the point of sentence and in the application of payments received from the offender. The Surcharge may inhibit courts from ordering costs against the offender at all, and when they do, these might be at a lower level. An increase in the Surcharge amount may therefore reduce the amount of costs imposed and due to the Surcharge taking priority over discharging cost ordered by the court there may also be reduced costs paid to the CPS and other prosecutors. We estimate that the increase in the Surcharge on fines might reduce combined fine and cost revenue (accruing to HM Treasury, the MoJ, and the CPS and other prosecutors) by £0m - £5m per year in total. We are not able to monetise the impact of extending the Surcharge to other disposals on cost revenue.

### *Costs to VCSE providers of support services for victims and witnesses*

42. Developing a Commissioning Framework for support services for victims of crime, including defining categories of need that government funding should be used to meet and developing a means of measuring the impact of a service (**reform 1(a)**) may impose costs on VCSE providers of support services.
43. VCSE organisations that do not currently collect outcome-type information, or who collect less than will be required once services are commissioned on the basis of measured outcomes, will incur staff and other administrative costs associated with collecting data.
44. Organisations that cannot show that their service meets any of the specified needs or whose service does not meet the needs prioritised by the relevant commissioner, may lose funding. Organisations that cannot show their services have a measurable impact on outcomes for victims are likely to lose funding.
45. To the extent that it is possible to develop outcome measurements that can be compared across providers, organisations that prove to be less cost-effective than other providers at meeting victims' needs may lose funding.
46. Having government-funded services for victims commissioned locally by Police and Crime Commissioners, except for specialist, low-volume services and nationally delivered services (e.g. helplines), (**reform 1(b)**) will also impose costs on VCSE providers.
47. Providers who cover more than one local area will need to submit multiple applications (unless they provide a service that will be commissioned nationally. As some of the overall budget could be spent by the Police and Crime Commissioners on research into victims' needs to inform commissioning decisions, engagement with victims and other stakeholders and monitoring of services, the total budget available for providers could be lower (though note that reforms that increase the Surcharge (**1(c)**) and use revenue from FPNs (**1(d)**) mean that overall the reforms will increase the available budget). Some organisations will receive less funding as resources are reallocated to those assessed as providing a good service to those victims most in need of support.
48. Victim Support may incur costs from the introduction of schemes to make payments to victims of overseas terrorism (**reform 1(f)**), if it provides advice to potential applicants in the same way as it does for potential applicants to the CICS. There are likely to be small one off costs for staff training. There may also be ongoing staff costs from providing support to victims. These may not be significant unless there is a large increase in the volume of attacks.

*Costs to Police and Crime Commissioners*

49. Moving to a system in which support services for victims and witnesses are commissioned locally by Police and Crime Commissioners (**reform 1 (b)**) will impose costs on them. They will need to research the needs of victims and monitor and measure the performance of providers, in order to direct funding to services that effectively meet victims' needs.

*Costs to Local authorities*

50. Extending the Surcharge to juvenile offenders sentenced to conditional discharges, community sentences and custodial sentences (**reform 1(c)**) may impose cost on local authorities. Where the juvenile offender is looked-after and is under the age of 16, the local authority will generally become responsible for paying the Surcharge. The court has a discretion to order the local authority to pay the Surcharge in respect of juvenile offenders aged 16 or over in its care. There is evidence to suggest that a substantial proportion of children in custody may be looked-after,<sup>4</sup> though data on juveniles sentenced to other types of disposal is not available. We are therefore not able to estimate the scale of this impact.

*Costs to Parents of juvenile offenders*

51. Extending the Surcharge to juvenile offenders sentenced to conditional discharges, community sentences and custodial sentences (**reform 1(c)**) may impose cost on the parents of juvenile offenders. Where the juvenile offender is under the age of 16, the parents or guardian of the juvenile offender will generally become responsible for paying the Surcharge; where the offender is aged 16 or 17, the court has discretion to order the offender's parents or guardian to pay the surcharge.

*Costs to Other Government Departments*

52. Reforming the CICS (**reform 1(e)**) including reducing loss of earnings payments and no longer paying for private health care costs may impose costs on DWP (due to increased take-up of benefits) and the NHS. The scheme is intended to be one of last resort, and in particular only to pay special expenses and loss of earnings as supplements to, rather than substitutes for, state provision. Nevertheless, it may be the case that the reductions to loss of earnings and withdrawal of special expenses for private health care will result in increased demand for public services and benefits. It is not possible to quantify this impact, but since special expenses for private health care are only paid in a small number of cases (fewer than 50 in each year 2007/08 – 2009/10), and loss of earnings in around 1,000 cases it can be expected to be quite small. Enforcing the residency requirements relating to eligibility to apply to the Criminal Injuries Compensation Scheme may impose administrative costs on Government.
53. Introducing schemes to make payments to eligible victims of overseas terrorism (**reform 1(f)**) will result in costs to the Foreign and Commonwealth Office for its Counter Terrorism Department which would need to provide robust advice to Ministers on designation and service litigation.

*Costs to Personal Injury lawyers*

54. Reforming the CICS (**reform 1(e)**) to limit eligibility, including by removing more minor injuries from the scheme, may reduce demand for assistance from personal injury lawyers for applying to CICS.<sup>5</sup> The longer term impact this may have will be dependent on the ability of lawyers to valuably use their resources in other areas. However, the overall impact will depend on wider demand for legal services.

*Costs to the insurance industry*

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<sup>4</sup> The report by Berelowitz, S and Hibbert ,P 'I think I must have been born bad' report for the Office of the Children's Commissioner into the mental health and emotional wellbeing of children in custody (2011) found that 33% have been in care.

<sup>5</sup> Approximately 25% of applicants have legal representation, and these claims receive 35% - 40% of awards by value.

## RESTRICTED

55. The introduction of schemes to make payments to eligible victims of overseas terrorism could reduce demand for travel insurance. The extent of any impact is unclear.

### *Costs to those who assist/represent applicants for payments for injuries resulting from overseas terrorism*

56. Those who assist or represent eligible victims of overseas terrorism who apply for payments (**reform 1(f)**) will incur costs from providing this assistance.

### **Benefits of Option 1**

#### *Benefits to Victims and witnesses*

57. Developing a Commissioning Framework for support services for victims of crime, including defining categories of need that government funding should be used to meet and developing a means of measuring the impact of a service (**reform 1(a)**) will benefit victims. The Framework will be used for nationally commissioned services, and PCCs will also be encouraged to use it. Victims with needs prioritised by the PCC or national commissioner will benefit from more resources being put into services that meet their needs. In addition, services for all victims are likely to become more effective because providers will be able to measure the outcomes of their interventions, and will be incentivised to improve outcomes for victims. In addition, resources may be redirected to more cost-effective services, again resulting in better outcomes for victims.
58. Having government-funded services for victims commissioned locally by Police and Crime Commissioners, except for specialist, low-volume services and nationally delivered services (e.g. helplines) (**reform 1(b)**) will also benefit victims. PCCs will have an understanding of local issues and the services provided locally, and will be in a position to work collaboratively with other statutory service providers. As a result, victims most in need of support are likely to benefit as the local commissioner will reallocate resources for services to them. Service design and quality may also improve due to local commissioners putting resources into research, engagement and monitoring to inform the commissioning process (either due to reallocation of funding across organisations, or organisations reshaping their services in light of the commissioner's requirements).
59. Increasing the amount of funding available for victims services by increasing and extending the Surcharge, increasing the value of PNDs and using the revenue for the same purpose as the Surcharge (**reform 1(c)**) and using a maximum of £30m of revenue from increased FPNs (**reform 1(d)**) will benefit victims. We estimate that once fully implemented, together options 1(d) and 1(e) will result in increased spending on victims' services of £25m - £50m per year when income peaks.
60. Reforming application procedures for the CICS (**reform 1(e)**) may benefit victims, by making the process simpler and clearer and speeding up the time it takes to process claims for loss of earnings. Victims under 18 may benefit from the removal of the provision allowing claims officers to withhold an award where it is deemed to be in the victim's interest. Victims who make claims for both a physical and psychological injuries will benefit under our reforms to change the rule that currently prevents an applicant from receiving a payment for psychological injuries where that award is lower than the physical payment. Victims will also benefit from the reduction in the discount rate used to calculate payments for future special expenses and loss of parental services.
61. British and EU/EEA residents who are victims of overseas terrorism (and the dependents of those fatally injured) will benefit from publicly-funded payments (**reform 1(f)**).

#### *Benefits to the Ministry of Justice (MoJ) including its executive agencies, and to the Scottish Government*

62. Reforms to the CICS (**reform 1(d)**) will reduce spending on compensation by the MoJ/Scottish Government by £40m - £60m per year in 2011/12 nominal terms. There will also be a reduction in administration costs in the medium term, largely due to the removal of payments in tariff bands 1 – 5 and simplified loss of earnings provisions. These are estimated at approximately £1m - £1.5m in total. There may be additional reductions in compensation paid due to tightening of eligibility criteria. There may also be benefits from procedural changes and from implementing provisions in the Criminal Injuries Compensation Act 1995 to allow CICA to issue recovery notices to

## RESTRICTED

offenders for the compensation paid to their victim and, if the amount is not paid, to initiate debt recovery action through the civil courts. (Though note that the decision to implement the provision will depend on an assessment of its likely cost effectiveness i.e. whether it is expected to result in enough money being recovered to justify any administrative cost.)

### *Benefits to Voluntary, Community and Social Enterprise (VCSE) sector providers of support services for victims and witnesses*

63. Developing a Commissioning Framework for support services for victims of crime, including defining categories of need that government funding should be used to meet and developing a means of measuring the impact of a service (**reform 1(a)**) will have benefits for providers of support services. Those who can show that their service meets the specified needs (especially if these are also needs prioritised by the relevant commissioner) and can show their services have a measurable impact on outcomes, may receive more funding.
64. Moving away from measuring outputs to outcomes will mean organisations can reallocate resources to different activities during a funding cycle, if these will better achieve the desired outcomes.
65. More generally, the ability to assess the effectiveness of their services and the impact of any service innovations on victim welfare is likely to be valued by VCSE sector organisations as they are motivated primarily by the desire to help victims of crime
66. Having government-funded services for victims commissioned locally by Police and Crime Commissioners, except for specialist, low-volume services and nationally delivered services (e.g. helplines) (**reform 1(b)**) will also benefit providers of support services. There are likely to be opportunities for service providers to be involved in and shape the commissioning process. Providers of good services to victims assessed as most in need of support, including small local providers who might have difficulty applying successfully for national grants, should receive more funding – and access to, and monitoring of, funding could be less bureaucratic as PCCs would be closer to service providers. Also, providers who work in one area (or in only a few areas) but currently apply to multiple funding bodies may have to submit fewer applications.
67. Increasing funding for support services for victims by increasing and extending the Surcharge (**reform 1(c)**) and using a maximum £30m of revenue from motoring FPNs increased by the DfT for support services for victims (**reform 1(d)**) will also benefit providers as they will be able to help more victims – and these organisations are motivated primarily by the desire to help victims of crime.

### *Benefits to Police and Crime Commissioners*

68. Having government-funded services for victims commissioned locally by Police and Crime Commissioners, except for specialist, low-volume services and nationally delivered services (e.g. helplines) (**reform 1(b)**) will give PCCs the opportunity to shape local services to the benefit of the local people. They will also receive funding to spend on the commissioning process, and there may be opportunities to join up services and improve efficiency.

## **Net impact of Option 1, Key Risks, Assumptions and Sensitivities**

### **Net Impacts**

69. *Detailed net impacts of the individual reforms are set out in the individual impact assessments associated with the reforms. This section looks only at the key interactions between the reforms – the effect of the proposed changes to funding for state support for victims on victims, and on the government.*

### *Victims*

70. In financial terms, compensation paid to victims of violent crime with more minor injuries will be reduced by an estimated £35m - £55m per year (equivalent to £40m - £60m per year in 2011/12 nominal terms). Once reforms relating to the Surcharge and FPNs have their full impact, funding for support services for victims will be increased by £25m - £50m. Therefore in the long run we estimate that there is likely to be little overall impact on annual funding for victims.
71. Whether there is a net benefit or cost to victims depends also on the value placed on £1 of compensation by those who will no longer receive it (mainly those with minor injuries) compared



## RESTRICTED

to the value of £1 spent on support services. We do not have evidence to assess whether there is a difference. However, we assume that the value to victims as a whole of £1 spent on support services is at least as great that of £1 in compensation to those victims who will no longer receive it – and therefore that if there is little change in overall annual funding for victims, there will either be no net impact on victims, or a positive impact.

72. The value of spending on services (both the current spending and the proposed increase in spending) to victims may be increased by the development of a commissioning framework specifying needs that services should address, and a means of measuring whether services achieve outcomes. It also may be increased by the devolution of the commissioning of most services to local Police and Crime Commissioners. The more effective these reforms are in improving the targeting of resources and the quality of services, the more likely the reforms overall are to result in a net benefit to victims.

### *Government, including MoJ*

73. Together, the reforms are estimated to result in a net government saving of £0m - £45m per year.
74. We estimate that there will be a saving to government, due to a reduction in compensation paid under the CICS, of around £35m - £55m per year (in real terms) over ten years.<sup>6</sup>
75. This will be partially offset by an increase in spending on support services for victims of £10m - £30m (using additional motoring FPN revenue). In addition, there may be a loss of fine and court cost revenue of up to £5m.<sup>7</sup>
76. There will therefore be a net financial benefit to government. As for victims, we can also consider the social value of this change in spending. It will depend on the relative value of £1 spent on compensation for victims who will no longer be eligible; the value of £1 spent on support services for victims; and the value of £1 spent on other government activities.

### **Key Risks, assumptions and sensitivities**

77. *The following general risks and sensitivities apply. For specific risks and sensitivities attached to individual reforms please see the individual impact assessment associated with that reform.*
78. The impacts of the planned changes to the commissioning of government funded support services for victims (**reforms 1(a) and 1(b)**) are particularly sensitive to: the extent to which the needs prioritised by commissioners impact on victims' overall well-being; the scope there is for changing the allocation of resources across providers to improve outcomes; the feasibility of developing a tool for measuring outcomes and the scope for measurement of outcomes to improve the quality of funded services; the extent to which the framework is used by PCCs; the extent to which PCCs will have access to better information (from various sources) on need in their area than current commissioning bodies.
79. The impacts of the reforms to the Surcharge (**reform 1(c)**) are highly sensitive to the payment rate of the Surcharge on different disposals, the impact of the Surcharge on the amount of fines and costs imposed and collected, the numbers sentenced to different disposals in the future. There is particularly significant uncertainty around likely payment rates. These will be influenced by, amongst other things, the response of HMCTS enforcement to any increase in non-compliance. The impacts of reforms relating to the Surcharge are also sensitive to the length of any delay between the changes being implemented and additional revenue being collected (due to lags between offence, sentence and collection of financial penalties).
80. The impacts of using revenue from the Department for Transport's (DfT) proposed increase in the level of FPNs (**reform 1(d)**) is sensitive to: the level of the increase set following the DfT's consultation; further detailed decisions on the proportion of additional revenue that will be allocated to support services; the number of FPNs issued in future; and the payment rate for FPNs.
81. The impacts of the reforms to the CICS (**reform 1(e)**) are sensitive to future demand for compensation. There is particular uncertainty relating to the likely number and value of claims for loss of earnings payments.

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<sup>6</sup> this corresponds to a reduction of around £40m - £60m per year in 2011/12 nominal terms

<sup>7</sup> Note that we propose to increase spending on victims services by up to an additional £20m, but this will be funded by proposals to increase and extend the Victim Surcharge – revenue which is ring-fenced for victims' services.

82. Leaving aside uncertainties regarding the scale of the financial costs and benefits, as discussed above, the overall impacts of the reforms on victims are sensitive to the relative value to victims of support services compared to financial compensation. A key assumption is that the value to victims of £1 spent on support services is at least as great as the value of £1 in compensation to those victims who will receive less compensation as a result of the reforms to the CICS.
83. Similarly, the overall impact of the reforms on the Government depends on the relative value to society of compensation compared to support services or other government spending.

## Specific Impact Tests

### Statutory equality duties

An Equality Impact Assessment is included as a separate document in this consultation response.

### Competition Assessment

See relevant sections in the impact assessments for proposed reforms to the Criminal Injuries Compensation Scheme and the proposed introduction of a commissioning framework for support services for victims of crime.

### Small Firms Impact Test

The Commissioning Framework for support services for Victims of Crime (**reform 1(a)**) and the introduction of locally-led commissioning by Police and Crime Commissioners (**reform 1(b)**) may have an impact on small firms. Some providers of services for victims are businesses so the Commissioning Framework will apply to businesses, including small businesses, who wish to provide support services to victims of crime. However, we do not have evidence on the number of providers of services to victims of crime that are businesses or whether they are micro, small, medium or large businesses. We therefore can not be sure whether the impact is likely to fall on a disproportionate number of small businesses compared to their representation in the private sector as a whole.

It would not be appropriate to exempt small businesses from the Commissioning Framework as the Framework will be used to satisfy commissioners, providers, victims and tax payers that limited resources are being spent on those services which do the most to help the vulnerable cope with, and recover from, the effects of crime. However, we will include providers who are small businesses in the discussions to develop the Framework and we will ensure that the Framework is not too prescriptive, bureaucratic or disproportionate to the scale and type of organisations which are likely to provide the majority of support services for victims.

The increase in the Surcharge on fines (part of **reform 1(c)**) is likely to impact upon businesses found guilty of criminal offences. We do not count these impacts as they only fall on businesses convicted of offences. Only quite a small number of fines are given to businesses each year. 6,900 fines were given to "other" offenders in 2011 – whereas ONS data shows there were 2.1m business registered for VAT and/or PAYE in March 2010<sup>8</sup>. This category covers businesses but also public sector bodies.

The businesses affected will include small firms and sole traders. However, we do not have any evidence on the size of businesses given fines and so can't be sure whether a disproportionate number of small businesses are likely to be affected compared to their representation in the private sector as a whole.

Whether setting the Surcharge at 10% of the fine, with a minimum of £20 and a £120 maximum Surcharge level is likely to have a larger impact on small businesses than large businesses depends on if small businesses tend to receive fines under or above £1200. If small businesses receive fines of under £1200, then they will not have their Surcharge capped. The proportionate increase in imposition could then be larger for small businesses. However, as mentioned above sentencers are expected to ensure the overall imposition is in line with the offender's ability to pay.

Extending the Surcharge to conditional discharges, community sentences and custodial sentences will affect sole traders who are found guilty of criminal offences and other individuals convicted of offences related to their business activities (e.g. directors of companies).

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<sup>8</sup> <http://www.statistics.gov.uk/cci/nugget.asp?id=1238>

## RESTRICTED

Increasing the value of PNDs by £10 will impact on any businesses such as sole traders who are given a PND.

Extending the Surcharge to juvenile offenders is unlikely to impact on business as these reforms only affect under 18s.

We do not think it would be appropriate to exempt or adopt an alternative approach for small businesses. In order to be subject to the Surcharge a business needs to have committed an offence, and we do not think it appropriate to distinguish between offenders on grounds of whether they are a small business. As noted above, these impacts are not counted in this Impact Assessment as they will only fall on businesses/individuals convicted of criminal offences or who are issued with a PND.

Proposed reforms to the Criminal Injuries Compensation Scheme (**reform 1(e)**), changing the rules and reducing the number and potential value of applications for compensation will affect personal injury lawyers, including those in small firms, in two ways. There may be a reduction in demand for assistance with claims due to changes to eligibility criteria and reduction in the size of payments to those still eligible. Compared to the market in personal injury claims as a whole, this impact is unlikely to be significant.<sup>9</sup> There may also be a transitional impact because lawyers will need to familiarise themselves with the new scheme. However, this impact should be limited by the fact that the new scheme will be simpler than the current one.

Since the scheme revisions will apply equally to all victims of violent crime, it would not be possible to make exemptions, or provide a different approach, for small firms. We do not currently have data on the proportion of firms which offer support with CICA applications that are small. However, many providers of legal services are small, so it is possible that most of the relevant providers may also be small. In this sense (i.e. compared to the private sector as a whole) the impact might fall more heavily on small firms. However, amongst firms that provide assistance with CICA applications, we do not expect there to be a disproportionate impact on small firms.

### **Carbon Assessment**

We do not expect these reforms to have an impact on the emission of greenhouse gases.

### **Other Environment**

We do not expect these reforms to have any other environmental impacts.

### **Health Impact Assessment**

- Will your policy have a significant impact on human health by virtue of its effects on the following wider determinants of health? : Income; crime; environment; transport; housing; education; employment; agriculture; social cohesion.

There may be an impact on the health of victims of violent crime as a result of them receiving smaller payments. Conversely, though, if support services help victims to cope with and recover from the effects of crime, there may be a positive impact on economic activity, and therefore income, among this group.

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<sup>9</sup> Around 25% of successful claims, or 10,000 claims per year, have legal representation. Our proposals might reduce this by a third to a half (3,000 – 5,000). Data is not available to allow us to compare this to the total number of claims for compensation a year that involving personal injury lawyers.

However, the Compensation Recovery Unit keeps statistics on the number of cases registered with them. The Compensation Recovery Unit works with insurance companies, solicitors and DWP customers, to recover: amounts of social security benefits paid as a result of an accident, injury or disease, where a compensation payment has been made, and costs incurred by NHS hospitals and Ambulance Trusts for treatment from injuries from road traffic accidents and personal injury claims.

In 2009/10, 861,325 cases were registered to the CRU. Some of these cases may have involved only insurance companies, and no lawyers. However, if lawyers were only involved in 50% of these cases, CICA cases with legal representation would still correspond to less than 1% of this other work.

## RESTRICTED

- Will there be a significant impact on any of the following lifestyle related variables? : Physical activity; diet; smoking, drugs or alcohol use; sexual behaviour; accidents and stress at home or work.

Increased spending and reformed commissioning processes for support services for victims and witnesses of crime may have a positive impact by helping them to cope with and recover from the effects of crime, reducing stress.

- Is there likely to be a significant demand on any of the following health and social care services? : Primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services; health protection and preparedness response.

There may be an impact on the health service if the CICS no longer pays special expenses for private health care that is not available on the NHS. However, the small number of people involved (less than 50 per year), and the fact that the scheme is already designed as one of last resort mean that this impact is not expected to be significant. If improved support services help victims to cope with and recover from the effects of crime, there may be reduced demand for health and social care services.

### **Human Rights**

We believe the reforms are compliant with the Human Rights Act.

### **Justice Impact Test**

Impacts on the justice system are covered in the main body of this Impact Assessment.

### **Rural proofing**

We do not expect the impacts of these reforms to differ between rural and urban areas.

### **Sustainable Development**

These reforms are consistent with the principles of sustainable development, in particular those of a sustainable economy and of a just society.

### **Privacy Impact Test (an MoJ Specific Impact Test)**

Not relevant.

<b>Title:</b> A Framework for Quality and Outcomes in Support Services for Victims of Crime <b>IA No:</b> MoJ157 <b>Lead department or agency:</b> Ministry of Justice  <b>Other departments or agencies:</b> Police and Crime Commissioners -	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 02/07/2012		
	<b>Stage:</b> Consultation Response		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary Legislation		
<b>Contact for enquiries:</b> victimsconsultation@justice.gsi.gov.uk			
<b>Summary: Intervention and Reform</b>	<b>RPC Opinion:</b> RPC Opinion Status		

**Cost of Preferred (or more likely) Option**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
N/Q	N/Q	N/Q	No	NA

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

Support services for victims of crime provided by the voluntary, community and social enterprise (VCSE) sector are in part funded through numerous central and local government grants. The funding streams are often tied to the delivery of services to specific types of victims along with specific success criteria. There is a lack of consistent guidance for central government, commissioners and providers on successful delivery criteria based upon outcomes and how this could be measured. Government intervention in a co-ordinating capacity is required to develop a common Commissioning Framework and guidance to deliver efficient, accountable and transparent services to victims.

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

- ensure support services for victims meet their individual needs and have a real positive impact on their well-being
- enable providers of support services, and those who distribute public money to these providers, to be held to account
- develop a means of measuring the effectiveness of support services for victims that is proportionate to the scale and type of organisation concerned

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

**Base case:** Do nothing

**Policy Reform:** Develop a Commissioning Framework for support services for victims of crime in most need by (i) defining a set of categories that describe needs that may inhibit a victim's ability to cope and recover and that government funding should be used to meet, and (ii) developing a means of measuring the impact of a service (either on the victim's overall level of well-being, or, more specifically, on the victim's progress toward no longer having the particular need that service targets).

**Will the policy be reviewed? It will be reviewed. If applicable, set review date: 04/2017**

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes/No	<b>&lt; 20</b> Yes/No	<b>Small</b> Yes/No	<b>Medium</b> Yes/No	<b>Large</b> Yes/No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/Q	<b>Non-traded:</b> N/Q	

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

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

# Summary: Analysis & Evidence

# Policy Reform

**Description:** Develop a Commissioning Framework for support services for victims of crime in most need.

## FULL ECONOMIC ASSESSMENT

• Price Base Year N/A	PV Base Year	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)			
			Low: -	High: -	Best Estimate: -	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price)	Years	<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Cost</b> (Present Value)		
Low	Not Quantified (N/Q)		N/Q	N/Q		
High	N/Q		N/Q	N/Q		
Best Estimate						
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
-						
<b>Other key non-monetised costs by 'main affected groups'</b>						
Ministry of Justice: cost of researching the categories of needs victims have; cost of researching methods of measuring outcomes						
Service providers: transitional costs of moving to bidding for funding on the basis of meeting defined needs and setting up systems to measure outcomes; on-going costs of measuring outcomes; loss of funding for organisations whose services do not meet needs specified, or who subsequently prove to be less effective at achieving outcomes; and the potential for service providers to work collaboratively together to provide a better service which may result in the reduction or removal of services						
Victims: where funding is redistributed in light of new information about need and/or measurement of effectiveness, victims who used services that are no longer funded may get less support, or may need to seek support from a different (more effective) provider.						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price)	Years	<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Benefit</b> (Present Value)		
Low	N/Q		N/Q	N/Q		
High	N/Q		N/Q	N/Q		
Best Estimate						
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
-						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
Ministry of Justice/Police and Crime Commissioners: limited resources better focused on more effective victim services						
Service providers: clearer criteria for bidding for funding; possibly fewer different types of information required for different funding bodies; increased funding for service providers assessed as meeting specified needs, and who prove to be effective at achieving outcomes						
Victims: more effective services better targeted at their needs.						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>	N/A
The impacts of the proposal are sensitive to a number of factors:						
- costs and benefits in relation to services that will be commissioned locally are sensitive to whether Police and Crime Commissioners choose to use the Commissioning Framework						
-the realisation of most of the costs and benefits depend on whether it proves possible to develop a suitable set of categories of need and a practical means of measuring outcomes for victims						
-the benefits to victims (and the extent of reallocation of funding) are sensitive to how well services currently match victims' needs and achieve outcomes. They also depend on how accurately the measurement tool captures impacts, and whether it proves possible to measure impacts on the overarching outcomes or only specific categories of need.						
-the impact on victims is also sensitive to how closely the categories of need that are chosen correspond to the obstacles to their coping and recovering						
-the costs to service providers are sensitive to the complexity of the measurement tools developed, and the benefits to service providers are sensitive to whether other funding bodies adopt the same tools						

RESTRICTED

**BUSINESS ASSESSMENT (Policy reform)**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
<b>Costs: N/Q</b>	<b>Benefits: N/Q</b>	<b>Net: N/Q</b>	No	NA

## Evidence Base (for summary sheets)

### Introduction

1. This impact assessment relates to the development and use of a Commissioning Framework for support services for victims of crime. It was originally published to accompany the Government consultation "Getting it Right for Victims and Witnesses". It has not been changed substantively. However, as the Commissioning Framework will be relevant for reforms to the commissioning of victim services, it is being republished for completeness.
2. This impact assessment is one of a group of impact assessments to accompany the consultation response on the strategy for victims and witnesses. Other impact assessments in the consultation response will focus on:
  - An overarching impact assessment on the overall impact of all of the reforms
  - Locally led commissioning of victim services
  - Increasing and extending the Victim Surcharge, and increasing the value of Penalty Notices for Disorder to fund victims' services
  - Using money raised from motoring Fixed Penalty Notices increased by the Department of Transport to fund victims' services
  - Reforms to the Criminal Injuries Compensation Scheme
  - Compensation for victims of overseas terrorism

### Problem

1. According to the British Crime Survey, 40% of those victims that reported the crime wanted some kind of support to help them overcome the harms of crime.<sup>1</sup> More work is required to understand the needs of victims, particularly the most vulnerable, and the level of support they require. At present the funding that is available for providers of support services (from central and local government) is not allocated according to a clear understanding of the impact services have on individuals and their lives. It is important that the limited funds available are spent in a way which best achieves the purposes for which government allocates these funds – to support the most vulnerable victims of crime to cope with and recover from the impact of crime upon them.
2. There is no common method to assess the effectiveness of interventions for victims in use within the Ministry of Justice (MoJ) – or across Government more widely. The way in which the effectiveness of support services is assessed varies widely. Some funding streams use satisfaction as a measure. Others count the number of victims supported or the amount of activity undertaken. More sophisticated approaches involve assessing the 'distance travelled' by the victim as they are supported or the value added by the service.
3. An effective framework needs to set clear expectations against which both local and national commissioners and providers will be held accountable. Ultimately, both should be assessed in terms of their ability to achieve the desired outcomes – enabling victims to cope and recover – rather than the number of victims supported, or other transactional measures.

### Rationale for Intervention

4. The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by

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<sup>1</sup> This figure is combined data from the 2007/08 and 2008/09 Crime Survey for England and Wales (report forthcoming). The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012. The CSEW is a face-to-face victimisation survey in which people resident in households in England and Wales are asked about their experiences of a range of household and personal crimes. It excludes a number of types of crime, such as fraud, crimes against commercial premises, and homicide. The data presented here excludes children under the age of 16; in addition this estimate excludes victims of sexual violence.



misdirected rules). In both cases the reform itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).

5. We are currently undertaking research into the support needs of victims of crime; the effectiveness of support interventions for victims with regard to the impact on victim outcomes, and CJS outcomes; and approaches to measuring service quality and victim outcomes. The research will be completed during 2012. The results of this research will be used to create an outcomes based commissioning framework. This will be used by the Ministry of Justice for the support services for victims of crime that it commissions. It will also be available for use by Police and Crime Commissioners for the services they commission – though they will not be obliged to use it.
6. To date there has not been a consistent strategic approach to commissioning services for victims across Government departments and local funders that have responsibility for supporting victims of crime. Each funder has produced separate strategies and guidance which have generally focused on particular groups of victims and on outputs rather than outcomes. In an environment characterised by comprehensive information and little uncertainty or opportunity for learning about effective interventions, this can be as good as basing funding on outcomes. However, where conditions change and/or there is the potential to learn about the best way of achieving an outcome, an outcomes based commissioning framework should reduce inefficiency by no longer tying organisations to particular outputs.
7. At the same time, if those who commission services (the Ministry of Justice and Police and Crime Commissioners who choose to use the framework) have an explicit and publicly available set of criteria for assessing organisations' performance, it will be easier for members of the public and other interested parties to assess whether good funding decisions are being made, and hold commissioners to account if not.
8. A commissioning framework may also have an additional efficiency benefit. Ideally, we would like to develop a framework that can be used across providers of different services to victims and witnesses to produce comparable measurements of the extent to which they are achieving the outcomes that the Ministry of Justice and Police and Crime Commissioners want. Over time, this will enable resources to be (re)directed to providers whose services can be shown to achieve these objectives the best. This might mean different providers are funded, or might mean that providers reshape their activities to be more closely aligned to the objectives. However, until the research is concluded we cannot know whether this level of comparability is achievable – especially given the apparent diversity in victims' needs and in the scale and complexity of service provision across providers.

### **Main Affected Groups**

9. The main affected groups are:
  - Victims and witnesses;
  - Voluntary, Community and Social Enterprise (**VCSE**) sector organisations who provide services to victims and witnesses;
  - Ministry of Justice (MoJ) and Police and Crime Commissioners (PCCs)
  - Department for Communities and Local Government, Department for Work and Pensions (DWP), NHS, local authorities (LAs).

### **Note on territorial application**

The policy reform set out in this Impact Assessment applies to England and Wales.

## **Cost and Benefits**

### **Base Case**

10. This is the “do-nothing” option, under which monitoring and evaluation requirements for providers who receive funding would continue to be set up on an ad hoc basis. At the moment, funding is allocated directly by the Ministry of Justice and Home Office. The policy reform to move to a mix of local and national commissioning will see specialist, low-volume services and national services (e.g. helplines) commissioned at national level by the Ministry of Justice.<sup>2</sup> Responsibility for allocating funding for all other services will be transferred to locally elected Police and Crime Commissioners.<sup>3</sup> Because the do-nothing option is compared against itself its costs and benefits are necessarily zero, as is its Net Present Value (NPV)<sup>4</sup>.

## Policy Reform

11. We will develop a Commissioning Framework for support services for victims of crime in most need. This will involve two things:
12. We have defined a set of categories that describe the needs which may have to be met for a victim to cope with and recover from crime and that we think government funding should be used to meet. Commissioners at both a local and national level could decide whether or not to provide initial funding for a service partly on the basis of whether it is likely to meet at least one of these categories of need – and service providers bidding for funding will have clearer information on the criteria in use. Spelling out the types of needs victims may have may also help guide commissioners in researching local needs and the extent to which these are met by local provision, and then allocating their resources across different types of services.
13. Alongside this, we will develop a means of measuring the impact of a particular service – either the impact on the victim’s overall level of well-being, or, more specifically, their progress toward no longer having the particular need the service targets. The level of precision and detail with which outcomes are measured may vary between organisations so as not to be overly burdensome on smaller organisations. These measurements could be used by local and national commissioners to set objectives when contracting with providers, and possibly to help to decide whether to reallocate money between providers in subsequent funding rounds. It should be noted that although a framework will be developed for both the national commissioner and the local Police and Crime Commissioner, there will be no obligation for the Police and Crime Commissioner to use the Commissioning Framework – but there will be strong encouragement to do so in order for commissioning decisions to be transparent and for Police and Crime Commissioners to be accountable for their decisions.
14. We are currently undertaking research into the support needs of victims of crime; the effectiveness of support interventions for victims with regard to the impact on victim outcomes and CJS outcomes; and approaches to measuring service quality and victim outcomes. The research will be completed during 2012.

## Transitional costs of the policy reform

### *Costs to the MoJ*

15. The MoJ will need to devote resources to researching both methods of measuring outcomes for victims of crime and the factors that influence these outcomes, including engagement with service providers

### *Costs to the VCSE sector:*

16. Service providers that do not currently collect outcome-type information, or who collect less than might be required after reform, will incur costs from introducing new measurement processes

<sup>2</sup> See the Impact Assessment for Commissioning Victims Services for further details.

<sup>3</sup> In London, the role will be performed by the elected Mayor with the establishment of the Mayor’s Office for Policing and Crime. Different arrangements will apply in the City of London.

<sup>4</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

## Ongoing Costs of the policy reform

### *Costs to the VCSE sector:*

17. VCSE organisations that do not currently collect outcome-type information, or who collect less than might be required after reform, will incur staff and other administrative costs associated with collecting data
  - a. These costs will depend on the number of organisations that currently collect outcomes-type information;
  - b. These costs will also depend on the complexity of the data requirements.
18. Organisations that cannot show that their service meets any of the specified needs or whose service does not meet the needs prioritised by the relevant commissioner, may lose funding.
19. Organisations that cannot show their services have a measurable impact on outcomes for victims are likely to lose funding.
20. To the extent that it is possible to develop outcome measurements that can be compared across providers, organisations that prove to be less cost-effective than other providers at meeting victims' needs may lose funding.

### *Costs to Victims*

21. Victims with needs that are not prioritised by the relevant commissioner may have reduced access to services as a result of government funding being reallocated. We expect that commissioners (both local and national) will prioritise the needs of those who are victims of serious crime, those who are vulnerable and those who are persistently targeted.
22. To the extent that a common set of defined needs will be a compromise between those that are optimal for a diverse group of victims, changes in government funded services to meet the agreed needs may impose costs on victims. The size of these costs will depend on how heterogeneous the optimal outcomes are, and the extent to which current activities achieve these outcomes.

### *Costs to MoJ/Police and Crime Commissioners*

23. MoJ and Police and Crime Commissioners may incur administrative costs from setting and monitoring outcomes for organisations they fund, although the cost would largely fall to the MoJ who will research how outcomes could be monitored and measured before disseminating this information to Police and Crime Commissioners for them to use it as they see fit. These costs will depend on the complexity of the data requirements in the agreed Commissioning Framework.

## Benefits of the policy reform

### *Benefits to the VCSE sector:*

24. Providers who can show that their service meets the specified needs especially if these are also needs prioritised by the relevant commissioner, may receive more funding.
25. Moving away from measuring outputs to outcomes will mean organisations can reallocate resources to different activities during a funding cycle, if these will better achieve the desired outcomes.
26. More generally, the ability to assess the effectiveness of their services and the impact of any service innovations on victims' welfare is likely to be valued by VCSE sector organisations as they are motivated primarily by the desire to help victims of crime
27. Organisations that can show their services have a measurable impact on outcomes for victims are likely to receive more funding.
28. To the extent that it is possible to develop outcome measurements that can be compared across providers, organisations that prove to be more cost-effective than other providers at meeting victims' needs may receive more funding.

29. Currently providers who receive funding from different funders collect different data for these different funding bodies (for applications or monitoring). The move to a single outcome based commissioning framework may save administration costs because providers will only have to demonstrate outcomes achieved to one funding organisation.

*Benefits to Victims:*

30. Victims with needs prioritised by the relevant commissioner will benefit from more resources being put into services that meet their needs. We expect commissioners will prioritise the needs of those who are victims of serious crime, those who are vulnerable and those who are persistently targeted.
31. Services for victims are likely to become more effective because providers will be able to measure the outcomes of their interventions, and will be incentivised to improve outcomes for victims. In addition, resources may be redirected to more cost-effective services, again resulting in better outcomes for victims.

*Benefits to the MoJ and Police and Crime Commissioners:*

32. There is likely to be a reduction in time spent designing monitoring criteria for individual funding streams.

*Benefits to DWP, NHS, LAs, employers*

33. Depending on both the outcomes and the needs chosen, funding may be redirected toward services that better promote victims' physical and mental health and their ability to return to work. This would benefit other public sector providers of health care and financial support, as well as employers.

**Net Impact of the policy reform, key assumptions, risks and sensitivities**

34. The net impact on victims of the development of a Commissioning Framework along the lines set out above should be positive. The identification of needs that may inhibit a victim's ability to cope and recover should help ensure government funding goes to services that are likely to have a positive impact on victims. The effectiveness of services for victims, whose needs and recovery may be markedly different, will be captured with a suitable means of measurement within the framework. There are likely to be costs for some victims, as resources are transferred across services to target them on needs identified as priorities. However, the assumption is that the benefit to the victims with priority needs will outweigh these costs. In addition, over time the move to measuring the outcomes of services for victims should help to make the services more cost-effective – producing more benefits for the available resources.
35. The Ministry of Justice (and possibly Police and Crime Commissioners) will incur transitional costs from researching victims' needs and ways of measuring outcomes. There may also be some ongoing costs from contracting on outcomes and monitoring outcome information. These will be offset by the savings from no longer having to allocate grants and collect monitoring and evaluation information (as they would under the base case scenario). They will derive ongoing benefits from being able to target resources better at services that provide the outcomes they want.
36. The net impact on the VCSE sector is more ambiguous. A focus on specified victim needs and measurement of outcomes is likely to result in a reallocation of funding amongst providers. The net effect of this will probably be zero, with the losses of those whose funding is reduced being offset by the gains to others.<sup>5</sup> It may also impose additional administrative burdens, at least in the short term. On the other hand, providers may value having better information about the effectiveness of their services.

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<sup>5</sup> We cannot be certain of this, however. There is evidence to suggest that voluntary organisations' income from government may influence their income from other sources – and that this effect may be positive or negative (see, e.g., Andreoni and Payne (WP, 2010) and Andreoni and Payne (AER, 2003) for empirical evidence, discussion and further references)

37. These benefits are sensitive to a number of factors:

- the extent to which the needs prioritised by the government/Police and Crime Commissioners impact on victims' overall well-being;
- the extent to which any measurement tool can accurately capture the impacts of services on victims. If, for example, some types of impact proved harder to measure than others, funding might be redistributed inefficiently, or providers might stop providing services that are actually valuable;
- the extent to which the Commissioning Framework would need to compromise between the needs of different types of victims to reach a meaningful single set of outcomes and categories of need for the whole victim services sector. The benefits may also depend on the breadth of victims' groups involved in the development of the definitions of need and/or measurement tool;
- the extent to which providers currently undertake activities that best promote the desired outcomes. This will affect how much potential there is to improve outcomes by setting them as explicit objectives;
- the feasibility of developing meaningful numerical (or at least straightforwardly-comparable) measurements of the impact of services on outcomes for victims. This will affect how much opportunity there will be to identify, and reallocate resources to, more cost-effective providers;
- the size of the administrative burdens (both transitional and on-going) of measuring outcomes, and the extent to which any framework selected will be adopted by Police and Crime Commissioners;
- the reform of how services are commissioned. Services will be commissioned locally by Police and Crime Commissioners with some services being commissioned nationally by the Ministry of Justice. This is relevant for two main reasons:
  - Firstly, there will be more reliance on local democratic accountability for ensuring good funding decisions, so the value of a clear, public set of criteria for allocating funding and assessing performance is likely to be higher;
  - Secondly, Police and Crime Commissioners may make different decisions in different areas. It is possible that not all Police and Crime Commissioners will decide to base funding decisions on the Commissioning Framework. Even if they do, there may be differences in how the measurement and achievement of outcomes are incorporated into funding agreements with providers. The impact of the reform in this Impact Assessment may therefore differ between areas.
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## Summary of Options

38. Under the base case, "do nothing" option, providers would continue to deliver services with government funding without requirements to demonstrate their impact on victims and without a consistent set of criteria to determine whether services met relevant and legitimate needs. In light of the net impacts set out above, we think that the policy reform outlined, that is:

a) introducing a set of categories that describe needs that may inhibit a victim's coping,  
and

b) developing a means of measuring the impact of support services on victims

is preferable.

## Specific Impact Tests

### Statutory equality duty

A separate Equality Impact Assessment has been published.

## Competition Assessment

Does the reform:

Directly limit the number or range of suppliers (or providers)? No

Indirectly limits the number or range of suppliers (e.g. by altering demand)? Possibly.

We will implement the Commissioning Framework along with locally-led commissioning of services which will target support services at those victims of crime most in need. This will increase competition in the delivery of victim and witness services. The reform should give a diverse range of providers, from all sectors and of all sizes, the chance to compete for services. However, some providers might not be able to show that they are effective at helping victims cope and recover from the effects of crime and so may no longer get funding and may no longer be able to continue. This might reduce the number of providers. However, it is also possible that new providers might be encouraged to enter the sector if the criteria for accessing funding are clearer. Also it might reduce the range of providers in that if the provider focuses on a group of victims that do not have the greatest need, they will not get funding and may not be able to continue provision. Again, though, we cannot be sure whether this will happen.

Limit the ability of suppliers to compete? Possibly

Providers currently have to meet different criteria for different grant schemes. The Commissioning Framework will be used by locally-led commissioners (and by the MoJ for nationally commissioned services) and so it will be clear to providers of services for victims what standards they need to achieve to obtain funding. This should help some providers enter the competition, but others may not be able to compete if they cannot afford to change their systems to monitor outcomes. We do not expect this to affect many, if any, providers. A key objective of the development process is to produce a monitoring system that keeps bureaucracy to a minimum and is proportionate to the scale and type of organisations in the sector.

Limit suppliers' incentives to compete vigorously? No.

## Small Firms Impact Test

Some providers of services for victims are businesses so the Commissioning Framework will apply to businesses, including small businesses, who wish to provide support services to victims of crime. However, we do not have evidence on the number of providers of services to victims of crime that are businesses or whether they are micro, small, medium or large businesses. We therefore can not be sure whether the impact is likely to fall on a disproportionate number of small businesses compared to their representation in the private sector as a whole.

It would not be appropriate to exempt small businesses from the Commissioning Framework as the Framework will be used to satisfy commissioners, providers, victims and tax payers that limited resources are being spent on those services which do the most to help the vulnerable cope with, and recover from, the effects of crime. However, we will include providers who are small businesses in the discussions to develop the Framework and we will ensure that the Framework is not too prescriptive, bureaucratic or disproportionate to the scale and type of organisations which are likely to provide the majority of support services for victims.

## Greenhouse gas assessment

Not applicable as the reform has no impact upon the emission of Greenhouse Gases.

## Wider Environmental issues

Not applicable as the reform has no impact upon the environment.

## Health and Well-being Impact Assessment

Not applicable as the reform has no negative impact upon lifestyle, health or social care services.

The provision of effective support to victims of crime, at the point of need should have a positive impact upon the health and lifestyle of victims and reduce the need for social care.

**Human Rights**

The reform is compliant with the Human Rights Act (1998).

**Justice Impact Test**

The overall impact on the Justice System is outlined in the evidence base of this Impact Assessment.

**Rural proofing**

Not applicable as the reform has no significant impact upon the rural environment.

**Sustainable Development**

Not applicable as the reform has no significant impact upon sustainable development.

**Privacy Impact Test (an MoJ Specific Impact Test)**

Not applicable.

## Annex 1: Post Implementation Review (PIR) Plan

<p><b>Basis of the review:</b></p> <p>It is intended to review the operation of the framework against the policy objectives once it has been in operation for the initial round of commissioning. The review will take place one year before the end of the first commissioning period, so that the framework can be amended, if appropriate, to inform the next round of commissioning.</p>
<p><b>Review objective:</b></p> <p>The post-implementation review will assess, as far as possible, whether the framework that is developed contributes to the achievement of the policy objectives outlined in the Impact Assessment.</p>
<p><b>Review approach and rationale:</b></p> <p>The review is likely to involve a qualitative assessment of the operation of the framework, including the collection of stakeholder views and a review of information generated through the use of the framework by service providers.</p>
<p><b>Baseline:</b></p> <p>No single widely used framework for monitoring and evaluating support services for victims of crime currently exists. As a result, information is not currently collected systematically on the effectiveness of support services for victims.</p>
<p><b>Success criteria:</b></p> <p>Positive responses from stakeholders including victims, service providers, commissioners and the wider public in relation to whether:</p> <ul style="list-style-type: none"> <li>○ the framework provides useful information on the effectiveness of services, in particular to inform service development for providers and funding decisions for commissioners;</li> <li>○ it contributes to the transparency of the commissioning process;</li> <li>○ it is sufficiently flexible to place proportionate demands on different sizes and types of organisation.</li> </ul>
<p><b>Monitoring information arrangements:</b></p> <p>Stakeholder views will be collected specifically for the review. In addition, monitoring information generated by the framework will be collected by the Ministry of Justice from providers of nationally commissioned services. Police and Crime Commissioners may also collect this information.</p>
<p><b>Reasons for not planning a PIR:</b></p> <p>N/A</p>



<b>Title:</b> Commissioning Victims' Services <b>IA No:</b> MoJ158  <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> Police and Crime Commissioners	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 02/07/2012		
	<b>Stage:</b> Consultation Response		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Other		
<b>Contact for enquiries:</b> victimsconsultation@justice.gsi.gov.uk			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
NQ	NQ	NQ	No   N/A

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

Currently the majority of central government funding for services to victims and witnesses is distributed as grants in a piecemeal way and to a small number of organisations. This does not allow for sufficient measurement and quality assurance of services and providers. Also we do not know whether the current funding allocations target those victims (geographically, demographically, by crime type) who are most in need of support. The government has previously been criticised by victims' groups and the Commissioner for Victims and Witnesses for trying to provide universal services to victims who may not want or need them instead of targeting services to those who really need them. Only the government can change the way it allocates the money it provides for victim services.

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

The objectives are to:

1. Ensure services are targeted towards those most in need of support and meet their individual needs
2. Ensure services meet the different needs of communities across England & Wales
3. Ensure specialist services for victims of particular types of crime and low-volume crime are available when and where required
4. Make it easier for victims and the public to hold funders and providers to account for delivering effective support
5. Enable victims and victims' interest groups to have a say in what services should be provided locally
6. Encourage partnership working so the funding of victim services from various sources is joined up/avoids duplication

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

**Base case:** Do nothing.  
**Policy Reform:** Introduce a mixed model of national and local commissioning for support services for victims. Nationally, services will be commissioned by the Ministry of Justice, locally by Police and Crime Commissioners.

This policy reform is believed to meet the policy objectives outlined above including ensuring that specialist services for low volume but high impact crime are still available and commissioned in a cost-effective way.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 06/2017					
Does implementation go beyond minimum EU requirements?				Yes / No / N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b> N/Q		<b>Non-traded:</b> N/Q	

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ Date: \_\_\_\_\_

## Summary: Analysis &amp; Evidence

## Policy Reform

Description: A mixed model of national and local commissioning for support services for victims. Nationally, services will be commissioned by the Ministry of Justice, locally by Police and Crime Commissioners.

## FULL ECONOMIC ASSESSMENT

• Price Base	PV Base Year -	Time Period Years -	Net Benefit (Present Value (PV)) (£m)		
			Low: -	High: -	Best Estimate: -
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price)	<b>Years</b>	<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Cost</b> (Present Value)	
Low	N/Q		N/Q	N/Q	
High	N/Q		N/Q	N/Q	
Best Estimate					
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
<b>Other key non-monetised costs by 'main affected groups'</b>					
<p><i>Commissioners (Local and National):</i> costs of research into victims' needs, contracting with and monitoring service providers</p> <p><i>Ministry of Justice:</i> any costs associated with developing a formula for allocating funding between local areas</p> <p><i>Providers of support services to victims of crime:</i> cost of providing application and monitoring information to relevant national or local commissioner(s); some funding spend on commissioning process; reduction in funding to providers the Police and Crime Commissioners assess as not providing good services to the victims most in need</p> <p><i>Victim:</i> some funding spent on commissioning process; reduction in amount spent on services for victims considered low need (those who are not considered a victim of serious crime, vulnerable or persistently targeted); (optional) costs of engaging with commissioners.</p>					
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price)	<b>Years</b>	<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Benefit</b> (Present Value)	
Low	N/Q		N/Q	N/Q	
High	N/Q		N/Q	N/Q	
Best Estimate					
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
<p><i>Commissioners (Local and National):</i> opportunity to shape the design of services; reduction in duplication of commissioned services.</p> <p><i>Providers of support services to victims of crime:</i> possible reduction in number of different funding streams to apply to; increase in funding to providers assessed as providing good services to the victims most in need.</p> <p><i>Victims:</i> Increase in the amount spent on services for victims considered high need; improvement in service design and quality due to better research, engagement, contracting and monitoring; opportunity to shape the design of services and hold commissioners (local and national) and providers to account.</p>					
<b>Key assumptions/sensitivities/risks</b>					N/A
<p>The key assumptions and associated sensitivities/risks are that:</p> <ul style="list-style-type: none"> <li>○ the split in funding between national and local Police and Crime Commissioners, and the funding formula used to allocate funding between local areas reflects variation in need</li> <li>○ Police and Crime Commissioners will have to balance the needs of gathering information to make decisions on needs of the local community to commission appropriate services, with the expense this will incur. This impact assessment assumes an outcomes based commissioning framework is developed and will be used by commissioners (see separate impact assessment)</li> <li>○ services that meet the needs of victims identified by the Police and Crime Commissioner as priorities for funding either already exist, or will be expanded/set up</li> <li>○ more research into victim needs and a move to contracting on outcomes rather than giving grants will result in a change in the distribution of funding and the activities of service providers</li> <li>○ the costs of administration, both nationally and locally, are kept to a minimum</li> <li>○ Police and Crime Commissioners should devote all the funding allocated to victims' services in line with the MoJ's objectives.</li> </ul>					

**BUSINESS ASSESSMENT (Option 2)**

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/Q	Benefits: N/Q	Net: N/Q	no	N/A

## Evidence Base (for Summary Sheets)

### Introduction

1. This impact assessment is one of a group of impact assessments to accompany the consultation response on the strategy for victims and witnesses. Other impact assessments in the consultation response will focus on:
  - An overarching impact assessment on the overall impact of all of the reforms
  - Increasing and extending the Victim Surcharge, and increasing the value of Penalty Notices for Disorder to fund victims' services
  - Quality and Outcomes in Support Services
  - Using money raised from motoring Fixed Penalty Notices increased by the Department of Transport to fund victims' services
  - Reforms to the Criminal Injuries Compensation Scheme
  - Compensation for victims of overseas terrorism
2. This impact assessment focuses on the likely effects of a range of reforms for commissioning services for victims.
3. Central government spends money on a range of services for victims and witnesses of crime. Under the 2011/14 General Fund the Ministry of Justice made three-year awards to 110 organisations covering a range of crime types and services. Funding was also allocated specifically for rape support centres, support for families bereaved by homicide and victims of human trafficking.
4. The bulk of Ministry of Justice funding for services for victims provided by the voluntary, community and social enterprise sector goes to Victim Support who receive core grant funding. Victim Support has, in the past, striven to offer support to all those referred by the police rather than specialising in support for those in greatest need. This means that support has been directed at those who potentially have less need for it, which is arguably inefficient and unsustainable. The British Crime Survey found that around 80% of those victims surveyed said they do not want any information, advice or support from the state, other sources such as Victim Support or from their family and friends. But of those victims who reported crimes to the police, 40% said they wanted some sort of support.<sup>1</sup> Currently the police are expected to refer victims to Victim Support, who then carry out a needs assessment. Victim Support received 250,000 referrals between October and December 2010 and only contacted and assessed the needs of 60% of them. Only 33% of those victims required support. Information is not known about the needs of the 40% of victims Victim Support were not able to assess.<sup>2</sup>
5. Under the present approach, the majority of central government funding for services to victims is provided in a piecemeal way and to a small number of organisations. The government has previously been criticised by victims' groups and the Commissioner for Victims and Witnesses for trying to provide universal services to victims who may not want or need them instead of targeting services to those who really need them. Only the government can change the way it allocates the money it provides for victim services.

### Problem

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<sup>1</sup> This figure is combined data from the 2007/08 and 2008/09 Crime Survey for England and Wales (report forthcoming). The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012. The CSEW is a face-to-face victimisation survey in which people resident in households in England and Wales are asked about their experiences of a range of household and personal crimes. It excludes a number of types of crime, such as fraud, crimes against commercial premises, and homicide. The data presented here excludes children under the age of 16; in addition this estimate excludes victims of sexual violence.

<sup>2</sup> Victim Support Scorecard 2010/11

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6. We believe there are two main problems with the current system, under which funding decisions are often taken in isolation and funding is provided in the form of grants rather than tied to outcomes:
  - a) Despite ongoing work by MoJ (at the national level) to better understand and quantify the needs of victims, we cannot be sure whether the current funding allocations target those victims (geographically, demographically, or by crime type) who are most in need of support; and
  - b) The current funding allocation process doesn't allow for sufficient measurement and quality assurance of services that receive government funding.

### **Rationale for intervention**

7. The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the reform itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).
8. Government spends money on services for victims primarily for equity/fairness reasons, though there may also be efficiency benefits. In equity terms, society provides support in recognition of the fact that victims of crime can experience considerable suffering. In efficiency terms, supporting victims of crime to cope and recover is thought to reduce demand on other areas of the public sector, in particular healthcare and benefits.
9. Only government can change the allocation of the money it provides to victims. The rationale for the reform is that the equity, and probably also the efficiency, benefits of funding for services for victims of crime will be enhanced if the funding is allocated in pursuit of more clearly specified criteria by an organisation, or organisations, with more expertise, resources and incentives to target funding at services that provide good quality support to the victims in greatest need.

### **Policy objectives**

10. The policy objectives are to:
  - a) Ensure services are targeted towards those most in need of support and meet their individual needs;
  - b) Ensure services meet the different needs of communities across England and Wales;
  - c) Ensure specialist services for victims of particular types of crime and low-volume crime are available when and where required;
  - d) Make it easier for victims and the public to hold funders and providers to account for delivering effective support;
  - e) Enable victims and victims' interest groups to have a say in what services should be provided locally; and
  - f) Encourage partnership working so the funding of victim services from various sources is joined up, avoiding duplication.

### **Main groups affected**

11. The following key groups are likely to be affected by the policy reform:
  - a) Victims and witnesses of crime
  - b) Police and Crime Commissioners (PCCs)
  - c) Voluntary, Community and Social Enterprise (VCSE) sector (a small number of which are also businesses)
  - d) Other funders of VCSE providers of services to victims
  - e) The Ministry of Justice (MoJ)

### **Note on territorial application**

The policy reform in this Impact Assessment applies to England and Wales.

## Cost and Benefits

### Description of the reform considered

12. Following the consultation we have identified one policy reform for commissioning victims' services; a mix of local commissioning conducted by police and crime commissioners, with some services being commissioned at a national level by the Ministry of Justice.

### Base Case – do nothing

#### Description

13. Under this option, the MoJ would continue to issue grants to services from the centre, including a Grant-in-Aid arrangement with Victim Support each year and smaller grants to a number of voluntary sector providers.
14. Because the base case of do-nothing is compared against itself its costs and benefits are necessarily zero, as is its Net Present Value (NPV)<sup>3</sup>.

### **Policy Reform - A mixed model of national and local commissioning for victims' support services. Nationally, services will be commissioned by the Ministry of Justice, locally by Police and Crime Commissioners.**

15. This policy reform sets out a local commissioning model where commissioning decisions would be based on the local commissioner's understanding of the local needs and demand for services. These services should be commissioned using the outcomes based commissioning framework that will be developed for local and national commissioners, which will set out the two outcomes which service providers should aim to achieve – helping victims to cope with the immediate impacts of crime and to recover from the harm experienced. Police and Crime Commissioners (PCCs) will be responsible for the commissioning process at a local level. PCCs will be elected in November 2012 and will replace police authorities in each police force area in England and Wales. In London, the role will be performed by the elected Mayor with the establishment of the Mayor's Office for Policing and Crime. Different arrangements will apply in the City of London. Specialist, low-volume services and national services (e.g. helplines) will be commissioned at national level by the Ministry of Justice based on an open competition. We intend to have made the transition to a mixed model of local and national commissioning by 2015.
16. Since the MoJ have decided the majority of services to commission nationally, the next step will be to develop the process for tendering for contracts with service providers and to monitor and measure their performance. In addition, further work will be undertaken to assess whether additional services for victims of sexual and domestic abuse can be commissioned nationally. Work will also be conducted on which types of helplines should be commissioned nationally. The reform will ensure that national services will be commissioned at a national level where there is clear evidence to show that this type of commissioning is necessary to secure effective provision. Services that will be commissioned at national level will include the homicide service, a witness service, rape support centres, helplines and services for victims of trafficking.

#### Costs

##### *Costs to Police and Crime Commissioners*

<sup>3</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

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17. Police and Crime Commissioners will be encouraged to research the needs of victims, engage with victims and partner organisations and monitor and measure the performance of providers. They will incur costs from doing this. The PCC should, however, have access to different types of information and experience particularly through their strong links with community safety partners, local government and NHS primary care trusts so should be able to access information regarding local need and current service provision from these sources. They will also be able to draw on information and guidance from the Ministry of Justice's Evidence and Practice Review of support for victims. Police and Crime Commissioners will have responsibility for commissioning services other than for victims and the costs of commissioning victims' services should therefore be kept to a minimum.

### *Costs to Providers*

18. Providers may need to provide more and/or different information to the Police and Crime Commissioners than to current funding bodies.
19. Providers who cover more than one local area will need to submit multiple applications. National providers may potentially need to submit a large number of applications.
20. As some of the overall budget could be spent by the Police and Crime Commissioners on research into victims' needs to inform commissioning decisions, engagement with victims and other stakeholders and monitoring of services, the total budget available for providers could be lower.
21. Some organisations will receive less funding as resources are reallocated to those assessed as providing a good service to those victims most in need of support.

### *Costs to Victims*

22. As the Police and Crime Commissioner is likely to reallocate resources to services for victims assessed as the most in need of support locally, other groups of victims will not receive the same level of support they would receive under the base case of do nothing. The victims affected will be those who are less in need and do not require the same level of support as an individual who has been identified as requiring substantial support.
23. As some of the overall budget could be spent by the Police and Crime Commissioners on research into victims' needs to inform commissioning decisions, engagement with victims and other stakeholders and monitoring of services, the amount of government money providers receive to spend on services for victims may be lower.

## **Benefits**

### *Benefits to Providers*

24. There are likely to be opportunities for service providers to be involved in and shape the commissioning process by engaging with the Police and Crime Commissioner.
25. Providers of good services to victims assessed as most in need of support, including small local providers who might have difficulty applying successfully for national grants, should receive more funding.
26. Access to, and monitoring of, funding could be less bureaucratic as Police and Crime Commissioners would be closer to service providers and therefore need to rely less on formal processes.
27. Providers who work in one area (or in only a few areas) but currently apply to multiple funding bodies may have to submit fewer applications.

### *Benefits to Commissioners (Local and National):*

28. Opportunity to shape the design of services; reduction in duplication of commissioned services.

*Benefits to Victims*

28. Victims most in need of support are likely to benefit as the police and Police and Crime Commissioner will reallocate resources for services to them.
29. Service design and quality may improve as Police and Crime Commissioners will put resources into research, engagement and monitoring (either due to reallocation of funding across organisations, or organisations reshaping their services in light of the commissioner's requirements). The work of Police and Crime Commissioners will be informed by advice from victims' advocates. These have been funded by the Home Office to examine the needs of local victims and the services currently available to them, and then to advise Police and Crime Commissioners of what they have discovered.
30. Police and Crime Commissioners are expected to have an understanding of local issues and the services provided locally, and be in a position to work collaboratively with other statutory service providers. This could improve the responsiveness and effectiveness of support for victims.
31. Police and Crime Commissioners are required under the Police Reform and Social Responsibility Act 2011 to obtain the views of victims of crime on their plans. Our reforms would further strengthen this link between Police and Crime Commissioners and the victims in the force area. Police and Crime Commissioners will be directly accountable to the people in their area, ensuring that they respond to local priorities.
32. The local allocation of funding could make it more likely that needs specific to a particular area are recognised and services are funded.

*Benefits to other public services*

33. Police and Crime Commissioners will be able to work with local partners to ensure that local services are joined up and also carry out joint commissioning where appropriate. There is a reciprocal duty in the Police Reform and Social Responsibility Act 2011 for the Police and Crime Commissioner and the responsible authorities comprising community safety partnerships to act in co-operation with each other. There is also a duty for Police and Crime Commissioners to cooperate with criminal justice partners. These requirements for strong collaborative work would allow Police and Crime Commissioners to draw on the expertise of criminal justice agencies, local authorities, and NHS primary care trusts or local health boards when commissioning support services for victims.

**Risks and assumptions**

34. There is an assumption that Police and Crime Commissioners will want to target resources at good services for victims most in need. Whether this is accurate is likely to depend on the views of the Police and Crime Commissioner. There is little opportunity to replace the commissioner (only through the electoral process once every four years) and there is therefore quite heavy reliance on public accountability mechanisms proving effective, including voters and other stakeholders being concerned about the support provided for victims, and any engagement not being dominated by the interests of one group of victims over another. An effective accountability mechanism is an essential requirement of the move to a local commissioning model. The Police and Crime Commissioner themselves will be monitored and scrutinised by their Police and Crime Panel who can look at the activity of the Police and Crime Commissioner, review the police and crime plan and request Police and Crime Commissioner papers, so the Panel could also consider whether the Police and Crime Commissioner is commissioning the most appropriate services for the area.
35. Improvements in service quality and the targeting of resources rely on the Police and Crime Commissioners gathering good information on the needs of victims and the quality of services as well as making good commissioning decisions. There is a risk that this will turn out to be difficult and/or expensive.



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36. Improvements in the targeting of resources also rely on services that meet the needs of victims identified by the commissioners as priorities for funding either already existing, or being expanded/set up.
37. There is an assumption that the current allocation of resources across groups of victims and provider activities could be improved upon – and therefore that more research into victim needs (and a move to contracting on outcomes rather than giving grants) will actually alter the distribution of funding and the activities of service providers.
38. There could be additional costs if the commissioners choose to produce information or analysis specifically for local purposes particularly for monitoring or public transparency requirements.
39. Police and Crime Commissioners could choose to spend some of the money they are allocated for victims' services on other local priorities.
40. There is a risk that providers only publish data that reflects positively on their performance or provide insufficient information for victims to effectively challenge them. The Police and Crime Commissioners would be able to withdraw funding to organisations that did not meet monitoring requirements. This would mitigate risks only if alternative organisations existed who could receive the funding and provide services.
41. There is a risk that the performance of Police and Crime Commissioners will vary between different areas, resulting in varying levels/quality of support for victims in different areas. However, it should be noted that though funding is currently allocated at national level, the system does not provide any guarantee of consistent provision across areas.
42. There is an assumption that some victims and victims' groups would wish to be consulted about decisions on future support services. It may be easier for some groups and individuals to engage at a local than at a national level.
43. There is a risk that national services that support victims of low volume crimes receive less funding because they are only relevant to a small number of victims in their area.
44. The impacts are sensitive to the initial decision on which services to commission nationally and the amount of funding to retain centrally for these services. There is a risk that, due to a lack of information about victim needs, the allocation between national and local, as well as between different local areas, will not reflect these needs. However we will monitor the operation of national commissioning, including seeking stakeholder views, and the division between locally and nationally commissioned services will be reviewed following implementation.
45. The impacts are also sensitive to how effectively commissioners and the VCSE are able to join up local service provision. Some voluntary sector organisations, such as Victim Support, already have built up relationships with the criminal justice agencies, local authorities and community safety partnerships. Some have also attracted funding for services from the Department of Health. The VCSE will need to build upon these relationships and forge closer links with other local partners that currently commission services that victims might need, such as health services, if they are to ensure that local services are joined up and carry out joint commissioning where appropriate. It is important that the VCSE sector also have a strong relationship with the police and crime commissioner who should encourage collaborative working amongst the different partner organisations.
46. There is a risk that the formula used for the initial allocation of funding between areas may not accurately reflect variation in need across areas. We will review and further develop the funding formula for future commissioning rounds, including drawing on information gathered by commissioners where available.

### **Assessment of Net Impacts and Summary of Reform**

47. We do not have evidence available to allow us to quantify the impacts of the reform.

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48. Net impact on victims: overall, victims should benefit from improvements in the suitability and quality of services resulting from additional research into their needs and a more rigorous commissioning process. Offsetting this, costs of research and commissioning may reduce the amount spent on frontline services. (Note that this impact assessment should be read in conjunction with those relating to reforms to increase and extend the Victim Surcharge and to use revenue raised from the an increase in motoring Fixed Penalty Notices (by the Department for Transport) which will generate additional funding (up to £50m) for support services for victims.)
49. The commissioning process is also expected to shift resources toward victims most in need. This will benefit these victims, but will have less of an overall benefit to those assessed as having less need of support. Some victims who have the greatest level of need do not get the support they require under the current system of funding services. This is due to a number of issues: the need has not been identified; the need has been identified but waiting lists for services such as counselling mean it cannot be met when it is needed; the need has been identified but the victim is not as high a priority as some others who have the same need; the need has been identified but services are not available or do not exist to meet that need. Targeting resources at services for those in greatest need would help commissioners make best use of available resources. But for it to be a benefit for victims the assessment processes will need to be able to identify those most in need and move resources towards them.
50. Net impact on VCSE sector providers of support services: providers may benefit by a move to commissioning as it reduces the number of different funding streams they need to apply to. However, they will incur costs to the extent that both Police and Crime Commissioners and the MoJ require more or different information for applications and monitoring than current funding bodies. In addition, the commissioning process is expected to direct resources to services that are assessed as providing good quality services to victims most in need. This may result in some organisations losing government funding and others gaining, or in organisations changing their activities.
51. Net impact on the Police and Crime Commissioner: there will be costs associated with researching the needs of victims, contracting with service providers and then monitoring performance. These costs will be paid for out of the overall budget available for services so the net impact on the Police and Crime Commissioner should be zero. The Police and Crime Commissioner may value the opportunity to shape the provision of support services, either as an end in itself. In addition, there may be potential benefits if Police and Crime Commissioners can make service provision more joined up and reduce duplication of commissioning services in their local area.
52. Net impact on the Ministry of Justice: the Ministry of Justice may incur costs from developing formulae to allocate money between regions/local areas or between crime types. However, the Ministry of Justice currently incurs costs from allocating grant funding, so expenditure on administering funding won't necessarily be much higher than the baseline.
53. Overall, we are clear that our policy reform – most services commissioned by Police and Crime Commissioners, and low volume, specialist services and national services (e.g. helplines) commissioned nationally by the Ministry of Justice – will deliver the policy objectives set out. The requirement to act in co-operation with community safety partnerships and criminal justice agencies will provide Police and Crime Commissioners with many advantages such as access to more detailed information about the local area and ultimately having a strategic overview of victims' support provision across their area. The public will be able to directly vote for a single person to represent the needs of victims in their area, thereby ensuring that Police and Crime Commissioners are scrutinised and held accountable for the decisions they make.

## Specific Impact Tests

### Statutory equality duties

An Equality Impact Assessment is included as a separate document in this consultation response.

### Competition Assessment

Does the policy:

1. Directly limit the number or range of suppliers? No
2. Indirectly limit the number or range of suppliers? No.  
(A locally-led commissioning model will introduce competition into the delivery of victim and witness services. We therefore expect the number and/or range of suppliers to increase.)
3. Limit the ability of suppliers to compete? No.  
(By encouraging and supporting capacity and capability building within the sector we hope a more diverse range of providers, from all sectors and of all sizes, will have the opportunity to compete to run and deliver services.)
4. Reduce suppliers' incentives to compete vigorously? No

No competition assessment required.

### **Small Firms Impact Test**

Some providers of services for victims are businesses so locally-led commissioning will apply to businesses, including small businesses, who wish to provide support services to victims of crime. However, we do not have evidence on the number of providers of services to victims of crime that are businesses or whether they are micro, small, medium or large businesses. We therefore can not be sure whether the impact is likely to fall on a disproportionate number of small businesses compared to their representation in the private sector as a whole.

It would not be appropriate to exempt small businesses from locally-led commissioning as this will be the means of them seeking and obtaining government funding. Along with the outcomes-based commissioning framework it will be the means by which commissioners, providers, victims and tax payers can be satisfied that limited resources are being spent on those services which do the most to help the vulnerable cope with, and recover from, the effects of crime. However, we will include providers who are small businesses in the discussions to develop the outcomes-based commissioning framework and we will ensure that it is not too prescriptive, bureaucratic or disproportionate to the scale and type of organisations which are likely to provide the majority of support services for victims.

### **Greenhouse Gas Assessment**

Not applicable as the reform has no impact upon the emission of Greenhouse Gases.

### **Wider Environmental Issues**

Not applicable as the reform has no impact upon the environment.

### **Health and Well-being Impact Assessment**

- Will your policy have a significant impact on human health by virtue of its effects on the wider determinants of health? : Income; crime; environment; transport; housing; education; employment; agriculture; social cohesion. No.
- Will there be a significant impact on any of the following lifestyle related variables: Physical activity; diet; smoking; drugs or alcohol use; sexual behaviour; accidents and stress at home or work? No
- Is there likely to be a significant demand on any of the following health and social care services?: Primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services; health protection and preparedness response. No

No health impact assessment required. The provision of effective practical and emotional support to those who suffer the impact of serious crime, the most vulnerable and those who suffer the serious cumulative impact of persistently targeted low-level crime, at the time when most needed can be expected to have a positive effect on health and the wider determinants.

### **Human Rights**

The reform is compliant with the Human Rights Act (1998).

### **Justice System Assessment**

Justice Impact Test completed. No expected impact on justice system.

### **Rural proofing**

The policy option of a combination of national and local commissioning of services for victims should help improve the availability of services in rural areas. The reform that services for victims of homicide and other low volume crimes to be commissioned nationally should enable rural areas to still have access to these services. If the commissioning of these services were devolved to the local level there may be little need for the services locally and so they would not be seen as a priority and not provided. The policy reform to devolve the commissioning of services to local areas for other victims of crime should enable services to be designed to reflect and meet local needs. This should benefit victims in rural areas who may have very different needs to those in inner city areas. Police and crime commissioners will need to seek the views of victims locally but may decide to use different means to do so in rural areas to reduce the costs to victims of travel. The overall strategy for victims and witnesses involves directing funding to those victims who have suffered the greatest impact from crime, the most vulnerable, and those who are persistently targeted. These groups may not be concentrated in rural areas and so within a local area resources may be focused on inner city areas where these groups may be more concentrated. But it will be for Police and Crime Commissioners to ensure that those victims who have suffered the greatest impact from crime, the most vulnerable, and those who are persistently targeted in rural areas have access to the services that they need.

### **Sustainable Development**

The reform set out in this Impact Assessment is consistent with the principles of sustainable development. In particular, the reform should lead to a sustainable economy and a healthy and just society.

### **Privacy Impact Test**

Not applicable as no impact expected on privacy.

## Annexes

### Annex 1: Post Implementation Review (PIR) Plan

<p><b>Basis of the review:</b></p> <p>It is intended to review the operation of the framework against the policy objectives once it has been in operation for the initial round of commissioning. The review will take place one year before the end of the first commissioning period, so that the framework can be amended, if appropriate, to inform the next round of commissioning.</p>
<p><b>Review objective:</b></p> <p>The MoJ's post-implementation review will assess, as far as possible, whether the national elements of commissioning meet the policy objectives both in relation to the services that are delivered and the commissioning process itself.</p> <p>Police and Crime Commissioners will be responsible for reviewing locally commissioned services.</p>
<p><b>Review approach and rationale:</b></p> <p>The review of national commissioning is likely to take two forms: the collection of monitoring information on the effectiveness of services; and a qualitative review of the commissioning process itself.</p> <p>Police and Crime Commissioners will be encouraged to conduct reviews of their commissioning.</p>
<p><b>Baseline:</b> Information is not currently collected systematically on the effectiveness of support services for victims or on the commissioning process.</p>
<p><b>Success criteria:</b></p> <ul style="list-style-type: none"> <li>• support services for victims are effective in helping them to cope and recover</li> <li>• victims are engaged in the commissioning of support services</li> <li>• the commissioning process is transparent and accountable</li> <li>• services are commissioned at the appropriate level (local or national)</li> </ul>
<p><b>Monitoring information arrangements:</b></p> <p>The MoJ intends to use the commissioning framework to monitor the effectiveness of those services that are commissioned nationally. We will seek stakeholder views to inform a review of the commissioning process for nationally commissioned services. We will also periodically review whether services are being commissioned at the appropriate level, including via engagement with stakeholders.</p> <p>The collection of any monitoring information for locally commissioned services will be the responsibility of Police and Crime Commissioners. They will be encouraged to use the commissioning framework to monitor the effectiveness of services, and also to review their commissioning processes.</p>
<p><b>Reasons for not planning a PIR:</b> N/A</p>

<b>Title:</b> Reforms to increase and extend the Victim Surcharge <b>IA No:</b> MoJ159 <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> HM Courts and Tribunals Service	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 02/07/2012		
	<b>Stage:</b> Consultation Response		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary Legislation		
<b>Contact for enquiries:</b> victimsconsultation@justice.gsi.gov.uk			
<b>Summary: Intervention and Reforms</b>			<b>RPC Opinion:</b> RPC Opinion Status

**Cost of Policy Reforms**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
£70m - £130m	-	-	No	NA

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

Despite an original intention to apply the Victim Surcharge to other court disposals and fixed penalty notices, since its introduction in 2007 the Surcharge has only been ordered on fines. It is ordered at a flat rate on all fines, and this rate has not been changed since 2007 despite inflation. It is both right and important that offenders contribute more to the cost of supporting victims.

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

It is a priority of the Government that offenders bear a greater proportion of the costs incurred by the state in supporting victims of crime. The proposed increase and extension of the Victim Surcharge as well as increasing Penalty Notices for Disorder (PNDs) will ensure a greater percentage of offenders contribute to the cost of support services. Extending to in court disposals other than fines will make the application of the Victim Surcharge more equitable across offenders.

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

**Base Case:** Do nothing.

**Policy Reforms: Implement the reforms to the Surcharge as set out in the consultation response.**

- a) The Surcharge will be payable in cases where a court deals with an adult offender by way of:
- a conditional discharge at a flat rate of £15;
  - a fine at 10% of the fine value, with a minimum amount of £20 and a maximum cap for the Surcharge ordered on fines at £120;
  - an adult community sentence at a flat rate of £60;
  - a sentence of imprisonment, including where suspended, at £80 for a sentence of 6 months and below; at £100 for a sentence of over 6 months and up to 2 years; and at £120 for a sentence over 2 years;
- b) The Surcharge will be payable when a court deals with a juvenile offender by way of:
- a conditional discharge at a rate of £10;
  - a fine or community sentence at a rate of £15;
  - a custodial sentence of any length at a rate of £20;
- c) Increase the value of PNDs by £10 on both lower and higher tier notices: the additional revenue will be spent on victim services

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 10/2015

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: N/Q	Non-traded: N/Q	

**I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.**

Signed by the responsible Minister: .....

Date: .....

# Summary: Analysis & Evidence

# Policy Reform

## Description: Implement the reforms as set out in the consultation response

- a) The Surcharge will be payable in cases where a court deals with an adult offender by way of:
  - i. a conditional discharge at a flat rate of £15;
  - ii. a fine at 10% of the fine value, with a minimum amount of £20 and a maximum cap for the Surcharge ordered on fines at £120;
  - iii. an adult community sentence at a flat rate of £60;
  - iv. a sentence of imprisonment, including where suspended, at £80 for a sentence of 6 months and below; at £100 for a sentence of over 6 months and up to 2 years; and at £120 for a sentence over 2 years;
- b) The Surcharge will be payable when a court deals with a juvenile offender by way of:
  - i. a conditional discharge at a rate of £10;
  - ii. a fine or community sentence at a rate of £15;
  - iii. a custodial sentence of any length at a rate of £20;
- c) Increase the value of PNDs by £10 on both lower and higher tier notices: the additional revenue will be spent on victim services

### FULL ECONOMIC ASSESSMENT

• Price Base	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)																				
			Low: 70	High: 130	Best Estimate:																		
<table border="1"> <thead> <tr> <th>COSTS (£m)</th> <th>Total Transition (Constant Price)</th> <th>Years</th> <th>Average Annual (After Transition) (Constant Price)</th> <th>Total Cost (Present Value)</th> </tr> </thead> <tbody> <tr> <td>Low</td> <td>0</td> <td rowspan="3">4</td> <td>0</td> <td>0</td> </tr> <tr> <td>High</td> <td>1. 15</td> <td>5</td> <td>40</td> </tr> <tr> <td>Best Estimate</td> <td>-</td> <td>-</td> <td>-</td> </tr> </tbody> </table>						COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (After Transition) (Constant Price)	Total Cost (Present Value)	Low	0	4	0	0	High	1. 15	5	40	Best Estimate	-	-	-
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Low	0	4	0	0																			
High	1. 15		5	40																			
Best Estimate	-		-	-																			
<p><b>Description and scale of key monetised costs by 'main affected groups'</b>                      MoJ/HM Treasury/CPS (and other prosecutors): Reduction in combined fine and court cost revenue</p>																							
<p><b>Other key non-monetised costs by 'main affected groups'</b>                      MoJ: further possible reductions in fine revenue                      MoJ (HMCTS): Increase in administrative costs and in enforcement workload. Possible increase in court hearings                      MoJ (NOMS): Possible increase in number of Surcharge and financial imposition defaulters sent to prison                      HM Treasury: reduction in PND revenue, possible additional reductions in fine revenue                      CPS (and other prosecutors): Possible further reduction in court cost revenue</p>																							
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<p><b>Other key non-monetised benefits by 'main affected groups'</b>                      Victims: victims may also value offenders taking greater responsibility for their crimes and doing more to repair the damage caused                      Providers (and potential providers) of support services for victims and witnesses: providers may derive satisfaction from being able to help more victims and witnesses due to increased funding being available.                      Wider society: benefit of offenders making greater recompense to victims and a fairer application of the Surcharge across a range of disposals</p>																							
<b>Key assumptions/sensitivities/risks</b>				<b>Discount rate (%)</b>	3.5																		

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The additional revenue for victims' services comes from offenders. The welfare of offenders is assumed to have a weight of zero so costs to them of higher impositions are not recorded as impacts. The timings of the impacts of the reforms, particularly those relating to custody, are uncertain. The impact on victims is sensitive to the payment rate and the number of offenders given community sentences. **We assume the payment rate for the Surcharge 70% for those given conditional discharges and fines, 60% for those given community sentences and suspended sentences and 40% for those sentenced to immediate custody. We assume a payment rate of 54% for PNDs. These are all highly uncertain.** The rate for immediate custody depends in part on the extent to which money can be collected from offenders in prison. We also assume the number of offenders given the relevant disposals remains at 2011 levels. They could vary, including if the Surcharge has a deterrent effect. The lower estimate is based on 20% optimism bias. We assume the reform relating to PNDs has an impact as soon as it is implemented, that reforms relating to conditional discharges, fines, adult community sentences, and suspended sentences and juveniles take 6 – 18 months to have their full impact, and the reform relating to custodial sentences takes 30 months for Crown Court sentences and 18 months for magistrates court sentences.

The cost to the CPS and other prosecutors is sensitive to the impact of the Surcharge on the amount of costs ordered by sentencers and on the proportion of offenders who comply with their cost orders. It is also sensitive to the response of HMCTS to any increase in non-compliance.

The impact on fine revenue to the MoJ and HM Treasury is sensitive to the effect of a larger Surcharge on compliance with fines. It is also sensitive to the response of HMCTS to any increase in non-compliance. The impact on PND revenue to HM Treasury is sensitive to the impact of an increase in PNDs on the payment rate.

The impact on MoJ (HMCTS) depends on the proportion of offenders who comply an order to pay the Surcharge, and the impact of the Surcharge on the proportion of offenders who comply with a fine or cost order. It also depends on resourcing decisions. There will only be a direct cost if additional resources are put into enforcement as a result.

The impact of the reforms relating to custody are also sensitive to the implementation of the Prisoners' Earning Act 1996 (PEA) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to deduct earnings from a wider group of prisoners than those that could be covered by the PEA. These may leave offenders in custody less able to pay any Surcharge.

The impacts of all the reforms are sensitive to any independent changes in enforcement practices by HMCTS.

The impacts of all the reforms except the increase in PNDs are sensitive to independent changes in the use of compensation orders by sentencers (as compensation takes priority over the Surcharge both at the point of sentence and for enforcement).

**BUSINESS ASSESSMENT**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
<b>Costs: -</b>	<b>Benefits: -</b>	<b>Net: -</b>	No	NA



## Evidence Base (for summary sheets)

### Introduction

3. This impact assessment is one of a group of impact assessments to accompany the consultation response on the strategy for victims and witnesses. Other impact assessments in the consultation response will focus on:
  - An overarching impact assessment on the overall impact of all of the reforms
  - Quality and Outcomes in Support Services
  - Locally led commissioning of victim services
  - Using money raised from motoring Fixed Penalty Notices increased by the Department of Transport to fund victims' services
  - Reforms to the Criminal Injuries Compensation Scheme
  - Compensation for victims of overseas terrorism
1. This Impact Assessment considers reforms to extend the Surcharge to conditional discharges for adults; to increase the value of the Surcharge ordered on fines for adults; to extend the Surcharge to adult community sentences; to extend the Surcharge to custodial sentences for adults, including suspended sentences, and to use additional revenue from increased PNDs for the same purposes as the Surcharge. It also considers the reforms to extend the Surcharge to juvenile offenders.
2. Following a public consultation, the Domestic Violence, Crime and Victims Act 2004 amended the Criminal Justice Act 2003 by creating a duty for the courts to order a Surcharge when dealing with an offender. It was implemented in April 2007 at a flat rate of £15 payable on all fines, including fines imposed on juvenile offenders. The intention had always been to extend the Surcharge to other disposals including custodial sentences and community sentences, and to increase the value of penalty notices for disorder and fixed penalty notices, the additional revenue to be used to fund victims' services. Proceeds from the Surcharge are ring-fenced to fund non-financial support services for victims and families.
3. The current £15 Surcharge on fines has raised a total of £41.9million since it was introduced in 2007 and has funded Independent Domestic Violence Adviser Services, Witness Care Units, Victim Support Plus and the Victims' Fund – which covers homicide, hate crime and sexual violence services. The Surcharge raised just over £3.8million in 2007/08, £8.1million in 2008/09, £9.2million in 2009/10, £10.5million in 2010/11 and £10.3 million in 2011/12.

### Rationale for intervention

4. The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the reform itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).
5. The aim of the reforms is to improve fairness in two ways. The first is to distribute the considerable financial expense of providing support to victims of crime by increasing the contribution of offenders to the costs incurred by the state in supporting victims to cope and recover. Approximately £66m is spent by central government each year on victim and witness support services. Offenders contribute only around £10m towards this total spend.
6. The second way of improving fairness is by ensuring more offenders pay a contribution towards the costs of supporting victims, with the level of contribution through the Surcharge being more proportionate to the seriousness of the sentence imposed by the court. Currently only offenders ordered by a court to pay a fine are ordered to pay the Victim Surcharge. Extending the range of

in-court disposals on which the Surcharge would be payable, through which offenders contribute to victims' services, at a value which is more proportionate to the sentence, will make for a fairer system. Under our reforms individuals issued with a PND (an out of court disposal) would contribute less than offenders given a conditional discharge, who in turn would contribute less than offenders fined in court, the majority of whom would contribute less than offenders given adult community sentences. Offenders subject to custodial sentences would contribute in proportion to the length of sentence handed down. This approach will allow the comparative seriousness of the sentence to be reflected in the amount of the Surcharge which a person is ordered to pay. (Note that when multiple sentences are imposed in respect of one offence, the Surcharge would only be payable on the sentence attracting the highest surcharge.)

7. This is not a straightforward equity argument, since typically we do not place value on offender welfare when assessing impacts. Rather, it is based on the idea that members of society value having a justice system that delivers appropriate and proportionate penalties. At present conditional discharges, which are a less serious sentence than a fine, are not subject to the Surcharge. Fines are generally imposed for less serious offences than community sentences (which can only be imposed for offences for which a custodial sentence is available in statute) and smaller fines imposed for less serious offences than larger ones. Custodial sentences are imposed for the most serious offences. The current arrangements, under which the Surcharge is ordered at a flat rate on fines and is not applied at all to community sentences or custodial sentences may therefore be seen as "unjust".

## Main affected groups

8. These reforms will impact on:
  - I. Victims of crime
  - II. The Ministry of Justice (MoJ), including HM Courts and Tribunal Service (HMCTS), which is an agency of the MoJ
  - III. HM Treasury/government revenue that is not ring-fenced for victims' services
  - IV. Providers (and potential providers) of support services for victims of crime
9. There may also be impacts on:
  - I. The Crown Prosecution Service (CPS) and potentially also on other prosecutors
  - II. The National Offender Management Service (NOMS), which is an agency of the MoJ
  - III. Wider society
10. Note that there will also be impacts on offenders (including individuals, businesses and public bodies) sentenced in court to conditional discharges, fines, community sentences and custodial sentences and persons issued with PNDs. However, impacts on offenders are not counted for the purposes of assessing the net impact of the reforms. The impact on businesses is considered as part of the mandatory Competition and Small Firms specific impact tests at the end of this document. The possible effects on offenders in terms of the protected characteristics specified in the Equality Act 2010 are considered in the Equality Analysis that accompanies the consultation response.

## Note on territorial application

The reforms in this Impact Assessment apply to England and Wales.

## Note on timing

11. The policies in all the Impact Assessments published alongside the Government consultation response are assessed from a start date of July 2012. We assume Surcharge reforms relating to conditional discharges, fines, community sentences, suspended sentences and immediate custodial sentences handed down in the Crown Court are implemented in October 2012. Reforms to PNDs are assumed to be implemented in April 2013. The extension of the Surcharge

to immediate custodial sentences handed down in the magistrates' court is assumed to be implemented in July 2014

12. We assume the reform relating to PNDs has an impact as soon as it is implemented, that reforms relating to conditional discharges, fines, adult community sentences and juveniles take 6 – 18 months to have their full impact, and the reform relating to custodial sentences takes 30 months for Crown Court sentences and 18 months for magistrates' court sentences.

## Cost and Benefits

13. This Impact Assessment identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these reforms. The costs and benefits of the reforms are compared to the base case ("do nothing" scenario). Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the reform impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.

### Base Case

14. This is the "do-nothing" scenario which involves leaving the Surcharge applied to fines at £15. Because the do-nothing scenario is compared against itself its costs and benefits are necessarily zero, as is its Net Present Value (NPV)<sup>1</sup>.
15. £10.3million was raised from the £15 Surcharge on fines in 2011/12. In 2011, about £185million was imposed in fines, and about £155million was collected (though not all fines collected in the year will have been imposed in the same year).
16. The most recent published statistics relate to 2011 when 851,600<sup>2</sup> offenders were given a fine as their primary disposal. The average number of fines given per year over the period 2006 – 2010 was 926,700. The median fine given in 2011 was £175 and the mean fine was £215.<sup>3</sup>
17. Offenders are categorised as "individuals" and "other" offenders. This latter category covers companies and other businesses, local authorities, public bodies, etc. In 2011, 6,900 offenders in this category received fines – accounting for slightly less than 1% of all fines imposed. The average proportion of fines imposed on offenders in this category over the period 2006 – 2010 was also slightly less than 1%.

## Policy Reforms

**a(i) Make the Surcharge payable in cases where a court deals with an adult offender by way of a conditional discharge, at a flat rate of £15.**

### Costs

#### *Costs to MoJ (HMCTS)*

18. We anticipate that there will be an increase in HMCTS's administrative and enforcement workload. It is likely that a percentage of those given a conditional discharge will not comply with the order to pay a Surcharge and enforcement activity will be required. This percentage may be greater where individuals are also ordered to pay compensation and costs. We are not able to

<sup>1</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

<sup>2</sup> NB all statistics on volumes of sentences are quoted to the nearest 100.

<sup>3</sup> Criminal Justice Statistics, Quarterly Update to December 2011 (Ministry of Justice)

predict the exact nature or scale of this impact (see discussion below in section on net impact of, sensitivities and risks).

#### *Costs to the CPS (and other prosecutors)*

19. There may be a cost to the CPS (and other prosecutors). The Surcharge takes priority over costs both at the point of sentence and in the application of payments received from the offender. The Surcharge may inhibit courts from ordering costs against the offender at all, and when they do, these might be at a lower level. The extension of the Surcharge may therefore reduce the amount of costs imposed and due to the Surcharge taking priority over discharging cost orders when received in the court there may also be reduced costs paid to the CPS and other prosecutors. Information on the value of cost orders imposed and discharged on those sentenced to conditional discharges is not available, so we are not able to estimate the likely scale of this impact.

### **Benefits**

#### *Benefits to victims*

20. The reform will result in an increase in spending on services for victims. As no similar financial impositions are made on all those sentenced to conditional discharges we do not have direct information to help us to predict the likely payment rate of the Surcharge. We therefore assume as a central case that the payment rate will be similar to that for fines, which we assume to be 70%.<sup>4</sup>
21. In 2011, 78,200 conditional discharges were given to offenders over 18. On this basis, our central estimate of additional revenue for victims' services from this reform is £1m (to the nearest £0.5m). As there is considerable general uncertainty around the impact of these reforms, we also calculate a lower estimate based on applying 20% optimism bias. To the nearest £0.5m, therefore, we estimate a range of £0.5m - £1m.
22. We assume it will take 6 – 18 months for the reform to have its full impact. The average time from offence to sentencing is around 6 months.<sup>5</sup> In at least some cases there will then be a further delay before the Surcharge is collected.
23. In addition, victims may value offenders given a conditional discharge taking greater responsibility for their crimes and doing more to repair the damage caused.

#### *Benefits to providers and potential providers of support services*

24. Providers may derive satisfaction from being able to help more victims and witnesses due to increased funding being available.

#### *Benefits to wider society*

25. If the extension is perceived by the public as bringing the system closer to one in which all offenders take responsibility and make greater financial reparation for their actions, there may be benefits in terms of fairness/public confidence in the justice system

### **Net Impact, sensitivities and risks**

26. We expect this reform to increase the amount of revenue collected for victims' services by around £1m. We also expect it to decrease the amount of costs collected by the CPS and other prosecutors. We would expect the overall impact on revenue to be positive, though in principle it could be neutral. We also expect it to increase HMCTS's enforcement workload.
27. The impacts of the reforms on victims and on the CPS (and other prosecutors) are highly sensitive to the responses of sentencers, of offenders to paying the Surcharge and of HMCTS enforcement.
28. The impact on victims is sensitive to whether the Surcharge is ordered on all offenders dealt with by means of a conditional discharge. We assume it is. The only instance in which it would not be

<sup>4</sup> See discussion in the section on **Costs of Reform a(ii)** below

<sup>5</sup> Court Statistics Quarterly, April – June 2011 (Ministry of Justice)

## RESTRICTED

ordered is if compensation is also ordered and the offender is unable to pay both (in which case the court may reduce the amount of the Surcharge if necessary to zero). The impact on victims is also sensitive to the compliance rate for the Surcharge (the proportion of offenders who pay without any enforcement being undertaken) and the response of HMCTS enforcement to an increase in its workload due to non-compliance with the new impositions. The compliance rate and the response of HMCTS will determine the overall payment rate – which is a key determinant of revenue.

29. We have assumed a payment rate of 70%, but this is highly uncertain.
30. The value of the benefit to victims and witnesses, and to wider society is also sensitive to the value of the services the funding is spent on. We assume that £1 of spending is worth £1. However, the true social value could be higher or lower than this.
31. The impact on the CPS is sensitive to whether the Surcharge is ordered on all offenders dealt with by means of a conditional discharge. We assume it is. The only instance in which it would not be ordered is if compensation is also ordered and the offender is unable to pay both (in which case the court may reduce the amount of the Surcharge if necessary to zero)., The impact on the CPS is also sensitive to the compliance rate (the proportion of offenders who pay without any enforcement being undertaken) with costs orders falls as a result, and the response of HMCTS enforcement to an increase in its workload due to non-compliance with the new impositions (see below). The compliance rate and the response of HMCTS will determine the overall payment rate – which is a key determinant of revenue.
32. The impact on HMCTS depends on the scale of any increase in non-compliance, and its response.
33. The impact of an increase in HMCTS's workload depends on resourcing decisions. There are four broad possible responses by HMCTS enforcement (which are not mutually exclusive):
  - I. no response – HMCTS could simply not enforce any Surcharges that were not complied with, or any cost orders that were no longer complied with as a result of the introduction of the Surcharge. There would be no additional costs to HMCTS under this scenario and no impacts on the collection of other financial impositions. However, the payment rate for the Surcharge and costs would be lower than it might otherwise be.
  - II. increase overall resources spent on enforcement – this would have a direct impact on MoJ (HMCTS) costs. However, it would mean there would be no impacts on the collection of other financial impositions, and the payment rate for the Surcharge and costs would be higher than if there was no response.
  - III. no increase in overall resources spent on enforcement, but a transfer of resources from other areas of work to enforce the Surcharge on conditional discharges – there would be no additional direct costs to HMCTS under this scenario. However, the amount collected from other financial impositions would fall, with possible impacts for a range of groups. The payment rate for the Surcharge and costs would be higher than if there was no response.
  - IV. use existing resources more efficiently – there would be no additional costs to HMCTS under this scenario. There would also not necessarily be any impact on the collection of other financial impositions and the payment rate for the Surcharge and costs would be higher than if there was no response. It is not clear how much scope there is for increased efficiency, or how likely it is that the introduction of this Surcharge would prompt increased efficiency.
34. The impacts of the reforms are sensitive to changes in crime rates and sentencing policies and patterns. We have assumed that the number of conditional discharges handed down remains at its 2011 level. However, changes to sentencing patterns may affect the number of conditional discharges. It is also possible that the Surcharge might have a deterrent effect. In addition, the demographic profile of those given Surcharges may change, which could affect the compliance and payment rates. Moreover, if the use of compensation orders for those given a conditional discharge increases, less revenue may be collected from the Surcharge (as compensation takes priority and the Surcharge may be reduced to zero if the Court considers the offender can't afford both).

35. The impacts of the reform are also sensitive to any independent changes in HMCTS enforcement practices.
36. The impacts of the reform are also sensitive to any changes in the use of compensation orders by sentencers, as compensation take priority for payment over other impositions.

**a(ii) Make the Surcharge payable in cases where a court deals with an adult offender by way of a fine at 10% of the fine value, with a minimum amount of £20 and a maximum cap for the Surcharge ordered on fines at £120.**

**Costs**

*Costs to MoJ (including HMCTS and NOMS):*

37. There are a number of possible costs to the MoJ:
- I. To the extent that an increased Surcharge increases overall impositions on offenders, we would expect there to be a fall in compliance rates and therefore an increase in the financial penalty enforcement workload.
  - II. Depending on the response of sentencers, any fall in compliance could also result in an increase in the number of people committed to prison for fine default. This would increase NOMS's workload. The proportion of offenders currently committed to prison for fine default is very small,<sup>6</sup> and a term in default of payment tends only to be used for persistent, wilful defaulters. If the increase in impositions were relatively small, we would expect any impact to be small.
  - III. Data on the payment rate for fines at present is limited - and the evidence we have indicates that it fluctuates. The ratio of the value of fines collected to the value of fines imposed was around 65% in 2009/10 and around 75% in 2010/11 and around 85% in 2011.<sup>7</sup> These can only be treated as approximate payment rates as not all the fines collected in a year will have been imposed in that year. Given this, we assume a baseline payment rate of around 75%. In addition, it is possible that the increase in the Surcharge may have a deterrent effect. In order to estimate impacts we assume a payment rate of 70%. This may be conservative as the Surcharge takes priority over fines for collection. In addition, the Surcharge can only be reduced when compensation is also ordered and the offender is unable to pay both. The MoJ retains a proportion of fine revenue collected by HMCTS over a certain collection rate. Therefore to the extent that an increased Surcharge reduces the value of fines imposed and/or collected, the MoJ's income will fall. We have no evidence to help us to predict the scale of these effects.

*Costs to HM Treasury*

38. Any fall in the amount of fines imposed and/or collected will reduce the amount of revenue available for other government spending.

*Costs to the CPS (and other prosecutors)*

39. There may be a cost to the CPS (and other prosecutors). The Surcharge takes priority over costs both at the point of sentence and in the application of payments received from the offender. The Surcharge may inhibit courts from ordering costs against the offender at all, and when they do, these might be at a lower level. An increase in the Surcharge amount may therefore reduce the amount of costs imposed and due to the Surcharge taking priority over discharging costs ordered by the court there may also be reduced costs paid to the CPS (and other prosecutors). We do not have sufficient information on the value of cost orders imposed and discharged available to estimate the likely scale of this impact.
40. This maximum impact would occur if no offenders paid any more in financial impositions in total – either because their fines/costs were reduced or because they didn't pay any increase. If we assume:
- I. the number of fines is the same as in 2011 (846,500 fines were handed down to offenders over 18) and the distribution of fine values also stays the same
  - II. the payment rate is around 70% (see above)
  - III. the payment rate is consistent across fines of different values

<sup>6</sup> In 2011, 1,133 people in total were sentenced to prison for fine default and, on average, at any one time there were about 130 people in prison for fine default ( Offender Management Statistics Quarterly Bulletin: October to December 2011, England and Wales, Ministry of Justice).  
<sup>7</sup> Data is not yet available for the full financial year 2011/12.

then we would expect total Surcharge revenue from fines to be around £15m per year. The current £15 Surcharge raises around £10m per year. Therefore we would expect an increase in Surcharge revenue of £5m from this reform. It follows that the maximum impact on combined fine and cost revenue of this reform would be **£5m**.

41. There could be no impact on fine/cost revenue. This would occur if sentencers didn't adjust fines/costs down for the new Surcharge and HMCTS were able to increase collection enough to keep the payment rate constant.

*Other costs to MoJ (HMCTS and NOMS)*

42. To the extent that an increased Surcharge increases overall impositions on offenders, we would expect there to be a fall in compliance rates. This could
- I. increase the financial penalty enforcement workload and;
  - II. depending on the response of sentencers, result in an increase in the number of people committed to prison for fine default. The proportion of offenders currently committed to prison for defaulting on financial impositions is very small,<sup>8</sup> and the committal to prison in default tends only to be used for persistent, wilful defaulters. We think any impact is likely to be small.
43. There might be an additional administrative cost due to the additional complexity of imposing a variable Surcharge rather than a single flat rate. However, no additional IT investment would be required so we expect any impact to be small.

**Benefits**

*Benefits to Victims*

44. The reform will result in an increase in spending on services for victims. Based on the calculations above, our central estimate is that the reform will increase revenue for victims' services by £5m (to the nearest £1m). As there is considerable general uncertainty around the impact of these reforms, we also calculate a lower estimate based on applying 20% optimism bias. Therefore, to the nearest £1m we estimate a range for the annual benefit to victims of £4m - £5m
45. We assume that it will take 6 - 18 months from implementation for the reform to have its full impact. The average time from offence to sentencing is around 6 months. In at least some cases there will then be a further delay before the Surcharge is collected.

*Benefits to providers and potential providers of support services*

46. Providers may derive satisfaction from being able to help more victims and witnesses due to increased funding being available.

*Benefits to Wider society*

47. If the increase is perceived by the public as bringing the system closer to one in which offenders take responsibility and make greater financial reparation for their actions, there may be benefits in terms of fairness/public confidence in the justice system. Setting the Surcharge as a percentage of a fine aims to ensure that the level of contribution offenders make to the cost of supporting victims of crime is proportionate to the sentence. Proposing that the Surcharge ordered on fines is subject to a £20 minimum and £120 maximum seeks to ensure fairness, by providing that the lowest available Surcharge on fines would be greater than that for a conditional discharge, but still keeping the maximum within the bounds of what is reasonable.

**Net Impact, sensitivities and risks**

48. We expect this reform to increase the amount of revenue collected for victims' services. We also expect it to decrease the amount of fine and court ordered costs revenue collected. We estimate that the net impact could lie anywhere between £0m - £5m per annum. We also expect the reform to increase HMCTS's enforcement workload.
49. The impacts of this reform are sensitive to the payment rate, including to any variations in the payment rate across fine values. The estimates assume a payment rate of 70% across all fine values. However, it is possible that there could be variation. Under this reform those who get

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<sup>8</sup> In 2011, 1,133 people in total were sentenced to prison for fine default and, on average, at any one time there were about 130 people in prison for fine default ( Offender Management Statistics Quarterly Bulletin: October to December 2011, England and Wales, Ministry of Justice).

## RESTRICTED

larger fines will also receive larger Surcharges, if the payment rate is different for high value than for low value fines, revenue will be different.

50. The impacts are also highly sensitive to the responses of sentencers and offenders to an increase in the Surcharge, and to the response of HMCTS enforcement.
51. No extra revenue would be collected if sentencers reduced fines and/or costs ordered against defendants to fully absorb the increase in the Surcharge. More generally, the net increase in revenue will be lower the more sentencers reduce fines and costs in response to the increased Surcharge.
52. Similarly, no additional revenue would be collected if, despite an increase in overall impositions, it proved impossible to collect any more revenue from offenders. More generally, the net increase in revenue will be lower the less additional revenue it proves possible to collect from offenders.
53. The value of the benefit to victims and witnesses, and to wider society is also sensitive to the value of the services the funding is spent on. We assume that £1 of spending is worth £1. However, the true social value could be higher or lower than this.
54. If overall impositions increase, we expect at least some decrease in the compliance rate for financial impositions. This will increase the enforcement workload. The overall impact of the reforms on victims, the MoJ, HM Treasury and the CPS depend on resourcing decisions made in response. The main possibilities (which are not mutually exclusive) are:
  - I. no response – HMCTS could simply not enforce any Surcharges that were not complied with, or any cost orders that were no longer complied with as a result of the introduction of the Surcharge. There would be no additional costs to HMCTS under this scenario and no impacts on the collection of other financial impositions. However, the payment rate for the Surcharge and costs would be lower than it might otherwise be.
  - II. an increase overall on resources spent on enforcement – this would have a direct impact on MoJ (HMCTS) costs. However, it would mean there would be no impacts on the collection of other financial impositions, and the payment rate for the Surcharge and court ordered costs would be higher than if there was no response.
  - III. no increase in overall resources spent on enforcement, but a transfer of resources from other areas of work to enforce the Surcharge on fines – there would be no additional direct costs to HMCTS under this scenario. However, the amount collected from other financial impositions would fall, with possible impacts for a range of groups. The payment rate for the Surcharge and costs would be higher than if there was no response.
  - IV. more efficient use of existing resources – there would be no additional costs to HMCTS under this scenario. There would also not necessarily be any impact on the collection of other financial impositions and the payment rate for the Surcharge and costs would be higher than if there was no response. It is not clear how much scope there is for increased efficiency, or how likely it is that the introduction of this Surcharge would prompt increased efficiency.
55. The impact of the reform is also sensitive to changes in crime rates and sentencing policies and patterns. Changes to sentencing patterns may affect the number of fines handed down. The increase in the Surcharge may itself have a deterrent effect. In addition, the demographic profile of those given fines may change, which could affect the compliance and payment rates. Moreover, if the use of compensation orders for those given fines increases, less revenue may be collected from the Surcharge (as compensation takes priority).
56. The impacts of the reforms are also sensitive to any independent changes in HMCTS enforcement practices.

**a(iii) Make the Surcharge payable in cases where a court deals with an adult offender by way of an adult community sentence at a flat rate of £60.**

### **Costs**

*Costs to MoJ (including HMCTS)*



## RESTRICTED

57. There will be an increase in HMCTS' enforcement workload for two reasons. Some of those who currently get a costs or compensation order with their community sentence and comply with it may not comply with their new, higher imposition which would include the Surcharge. In addition not all of those who get adult community sentences currently get any kind of financial imposition. It is likely that some of these will not comply with their Surcharge. We are not able to predict the scale of this impact as we do not know how these offenders will respond to a new imposition.
58. There may also be an impact on fine revenue to the MoJ. In some cases an offender is given a fine as a secondary disposal alongside their community sentence. In this case, only one Surcharge would be imposed – whichever is the larger of the Surcharge that would have been payable on the fine or the community order. This reform, therefore, could increase the Surcharge paid by those sentenced to fines. This could reduce the amount of fine revenue collected (either because sentencers imposed lower fines to (partially or fully) absorb the additional Surcharge, or because fewer of the fines imposed were collected by HMCTS).

### *Costs to HM Treasury*

59. Any impact on fine revenue would also impact on HM Treasury by reducing the amount of revenue available for other government spending.

### *Costs to the CPS (and other prosecutors)*

60. There may be a cost to the CPS and other prosecutors. The Surcharge takes priority over costs both at the point of sentence and in the application of payments received from the offender. The Surcharge may inhibit courts from ordering costs against the offender at all, and when they do, these might be at a lower level. The extension of the Surcharge may therefore reduce the amount of costs imposed and due to the Surcharge taking priority over discharging cost orders once the offender's payments are received in the court there may also be reduced costs paid to the CPS (and other prosecutors). Information on the value of cost orders imposed and discharged is not collected, so we are not able to predict the likely scale of this impact.

## **Benefits**

### *Benefits to victims*

61. The reform will result in an increase in spending on services for victims. We do not have direct information on the likely payment rate of a Surcharge on adult community sentences. We have some early, indicative evidence that suggests that offenders sentenced to community sentences may have lower means than those given fines.<sup>9</sup> However, HMCTS expect that a Surcharge on community sentences would be easier to collect than one on fines as offenders sentenced to community sentences are more likely to attend court, and so are easier to trace if enforcement is required. In light of these considerations, we assume a payment rate for a Surcharge on community sentences that is somewhat lower than that assumed for the Surcharge on fines: 60%.
62. In 2011, 132,400 community sentences were handed down to offenders over 18. At a payment rate of 60%, we would expect this reform to increase revenue for victims' services by about £5m (to the nearest £1m). As there is considerable general uncertainty around the impact of these reforms, we also calculate a lower estimate based on applying 20% optimism bias. To the nearest £1m, therefore, we estimate an annual benefit to victims of £4m - £5m.
63. We assume that it will take 6 - 18 months from implementation for the reform to have its full impact. The average time from offence to sentencing is around 6 months. In at least some cases there will then be a further delay before the Surcharge is collected.
64. Victims may value offenders taking greater responsibility for their crimes and doing more to repair the damage caused.

### *Benefits to providers and potential providers of support services*

65. Providers may derive satisfaction from being able to help more victims and witnesses due to increased funding being available.

### *Benefits to wider society*

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<sup>9</sup> "Offending, employment and benefits - emerging findings from the data linkage project": <http://www.justice.gov.uk/publications/statistics-and-data/ad-hoc/index.htm>

66. If the extension is perceived by the public as bringing the system closer to one in which offenders take responsibility and make greater financial reparation for their actions, there may be benefits in terms of fairness/public confidence in the justice system – especially as community sentences tend to be given for more serious offences than fines.

### **Net Impact, sensitivities and risks**

67. This reform will increase revenue for victims' services – in this case by around £5m. It may have a negative impact on court ordered costs revenue and on fine revenue to the MoJ and HM Treasury, though as not all those who will be ordered to pay the Surcharge are currently ordered to pay costs or fines, the impact on cost and fine revenue is unlikely to be large enough fully to offset the increase in Surcharge revenue. It will also have an impact on HMCTS' enforcement workload.

68. The impacts of the reforms on victims and on the CPS (and other prosecutors) are highly sensitive to the responses of sentencers, of offenders to paying the Surcharge and of HMCTS enforcement.

69. The impact on victims is sensitive to whether the Surcharge is ordered on all offenders dealt with by means of an adult community sentence. We assume it is. The only instance in which it would not be ordered is if compensation is also ordered and the offender is unable to pay both (in which case the court may reduce the amount of the Surcharge if necessary to zero)., The impact on victims is also sensitive to the compliance rate for the Surcharge (the proportion of offenders who pay without any enforcement being undertaken) and the response of HMCTS enforcement to an increase in its workload due to non-compliance with the new impositions. The compliance rate and the response of HMCTS will determine the overall payment rate – which is a key determinant of revenue..)

70. We have assumed a payment rate of 60%, but this is highly uncertain.

71. The value of the benefit to victims and witnesses, and to wider society is also sensitive to the value of the services the funding is spent on. We assume that £1 of spending is worth £1. However, the true social value could be higher or lower than this.

72. The impact on the CPS is sensitive to whether the Surcharge is ordered on all offenders dealt with by means of an adult community sentence. We assume it is. The only instance in which it would not be ordered is if compensation is also ordered and the offender is unable to pay both (in which case the court may reduce the amount of the Surcharge if necessary to zero)., The impact on the CPS is also sensitive to the compliance rate (the proportion of offenders who pay without any enforcement being undertaken) with costs orders falls as a result, and the response of HMCTS enforcement to an increase in its workload due to non-compliance with the new impositions (see below). The compliance rate and the response of HMCTS will determine the overall payment rate – which is a key determinant of revenue.

73. The impact on HMCTS depends on the scale of any increase in non-compliance, and its response.

74. If overall impositions increase, we expect at least some decrease in the compliance rate for financial impositions. This will increase the enforcement workload. The overall impact of the reforms on victims, the MoJ, HM Treasury and the CPS depend on resourcing decisions made in response. The main possibilities (which are not mutually exclusive) are:

- I. no response – HMCTS could simply not enforce any Surcharges that were not complied with, or any cost orders that were no longer complied with as a result of the introduction of the Surcharge. There would be no additional costs to HMCTS under this scenario and no impacts on the collection of other financial impositions. However, the payment rate for the Surcharge and costs would be lower than it might otherwise be
- II. an increase overall in resources spent on enforcement – this would have a direct impact on MoJ (HMCTS) costs. However, it would mean there would be no impacts on the collection of other financial impositions, and the payment rate for the Surcharge and costs would be higher than if there was no response
- III. no increase in overall resources spent on enforcement, but a transfer of resources from other areas of work to enforce the Surcharge on adult community sentences – there would

## RESTRICTED

be no additional direct costs to HMCTS under this scenario. However, the amount collected from other financial impositions would fall, with possible impacts for a range of groups. The payment rate for the Surcharge and costs would be higher than if there was no response

- IV. more efficient use of existing resources – there would be no additional costs to HMCTS under this scenario. There would also not necessarily be any impact on the collection of other financial impositions and the payment rate for the Surcharge and costs would be higher than if there was no response. It is not clear how much scope there is for increased efficiency, or how likely it is that the introduction of this Surcharge would prompt increased efficiency.
75. The impact of the reform is also sensitive to changes in crime rates and sentencing policies and patterns. Changes to sentencing patterns may affect the number of adult community sentences handed down. The Surcharge may have a deterrent effect.
76. In addition, the demographic profile of those given adult community sentences may change, which could affect the compliance and payment rates. Moreover, if the use of compensation orders for those given community sentences increases, less revenue may be collected from the Surcharge (as compensation takes priority both at the point of sentence and for enforcement).
77. The impacts of the reforms are also sensitive to any independent changes in HMCTS enforcement practices.

**a(iv) To extend the Surcharge to custodial sentences (for over 18s), including suspended sentences, at £80 for sentences of 6 months and below; at £100 for sentences of over 6 months and up to and including 2 years; at £120 for sentences over 2 years.**

### Costs

*Costs to MoJ (including HMCTS and NOMS)*

78. There will be three sources of costs to MoJ:

- I. an increase in HMCTS's enforcement workload. Financial penalties are seldom imposed on offenders subject to immediate custodial sentences. The reform assumes that the Surcharge could not be discharged as additional time in prison. Focus on collection of the Surcharge will be initially at the point of sentencing and upon release, whilst exploring options for offenders to pay while serving their sentence. We are not able to predict how offenders will respond to the new imposition – and therefore the scale of this impact.
- II. in the small number of cases where fines are imposed on those offenders sentenced to immediate custody or a suspended sentence, there could be an impact on fine revenue. At present, the flat rate £15 Surcharge on fines would apply to those sentenced to custody and a fine. Under this reform the Surcharge that would apply to the custodial sentence may be larger than that that would apply to the fine. In this case, the Surcharge imposed would be the one that applies to the custodial sentence – so the Surcharge would be higher. Sentencers may reduce the amount of fine imposed to (fully or partially) absorb any increase in the Surcharge, or there may be a reduction in the payment rate for fines (as the Surcharge takes priority). Again, we are not able to estimate the scale of this impact. As the number of offenders likely to be affected is small, it is likely to be small.
- III. there may be costs associated with the collection of Surcharge payments from offenders sentenced to immediate custody.

*Costs to HM Treasury*

79. Where fines are ordered to those sentenced to immediate custody or a suspended sentence, there could be an impact on fine revenue. Sentencers may reduce the amount of fine imposed to (fully or partially) absorb the Surcharge, or there may be a reduction in the payment rate for fines (as the Surcharge takes priority for enforcement). This is more likely to apply to suspended sentences than immediate custody. The proportion of fines not retained by MoJ goes to HM Treasury.

*Costs to the CPS (and other prosecutors)*

80. The Surcharge takes priority over costs both at the point of sentence and in the application of payments received from the offender. Offenders subject to custodial sentences may be ordered to pay costs, although this is more likely with a suspended sentence. The Surcharge may inhibit courts from ordering costs against the offender at all, and when they do, these might be at a lower level. The extension of the Surcharge may therefore reduce the amount of costs imposed and due to the Surcharge taking priority over discharging cost orders when received in the court there may also be reduced costs paid to the CPS and other prosecutors. Information on the value of cost orders imposed and discharged is not available, so we are not able to estimate the likely scale of this impact. These costs are also likely to be higher the higher the value of the Surcharge.

**Benefits**

*Benefits to victims*

- 81. This reform will increase revenue for victims' services.
- 82. We do have direct information on the likely payment rate for a Surcharge on offenders sentenced to immediate custody or suspended sentences. We assume that offenders sentenced to immediate custody have a payment rate of 40% (compared to an assumption of 70% for fines). We assume that offenders sentenced to suspended sentences have a similar profile to those sentenced to community orders, and assume the same payment rate as was assumed for this group – 60%.
- 83. A total of 98,600 custodial sentences were handed down to offenders over 18 in 2011. 54,600 were prison sentences of 6 months and below, 25,700 over 6 months up to and including two years, 18,300 were sentences over 2 years. In addition, 47,800 suspended sentences were handed down. We assume that, as in 2010, around 60% of these suspended sentences were for 6 months or less.
- 84. We assume the volumes of custodial sentences remain at 2011 levels in future. On this basis, we estimate that this reform could raise additional revenue of up to £6m, once fully operational. On this basis, and assuming similar numbers of offenders are sentenced to immediate custodial sentences and suspended sentences of various lengths, we estimate that this reform could raise additional revenue of up to £6m, once fully operational. As there is considerable general uncertainty around the impact of these reforms, we also calculate a lower estimate based on applying 20% optimism bias. To the nearest £1m, therefore, we estimate an annual benefit to victims of £5m - £6m.
- 85. We assume the reform to suspended sentences will take 6 – 18 months to have its full impact. We assume that it will take 30 months from implementation for the reform to immediate custodial to have its full impact for Crown Court sentences, and 18 months for magistrates court sentences.. This is longer than is assumed for other reforms as some offenders may pay at the point of sentence. Collection from other offenders may occur whilst serving their sentence or upon release. Implementation will be delayed for offenders sentenced to immediate custody in the magistrates' court. Currently magistrates' courts (but not the Crown Court) would have the power to add additional days to a sentence of immediate imprisonment in default of the Surcharge. We will not extend the Surcharge to immediate custodial sentences ordered in the magistrates' court until we have legislated to remove this power.
- 86. Victims may also value the most serious offenders taking greater responsibility for their crimes and doing more to repair the damage caused.

*Benefits to providers and potential providers of support services*

87. Providers may derive satisfaction from being able to help more victims and witnesses due to increased funding being available.

*Benefits to wider society*

88. If the extension is perceived by the public as bringing the system closer to one in which offenders pay for their actions, there may be benefits in terms of fairness/public confidence in the justice system – especially as custodial sentences tend to be given for the most serious offences

**Net Impact, sensitivities and risks**

## RESTRICTED

89. This reform will increase revenue for victims' services. Our indicative estimate of this increase is £6m. It may have a negative impact on the CPS (and other prosecutors) and on MoJ and HM Treasury revenue from fines. However, as not all those who will be ordered to pay the Surcharge are currently given fines as well as their custodial sentence or ordered to pay costs, the impact on combined costs and fine revenue is unlikely to be large enough fully to offset the increase in Surcharge revenue. We also expect an increase in HMCTS' enforcement workload.
90. The impacts of the reforms on victims, MoJ and HM Treasury fine revenues and the CPS (and other prosecutors) are highly sensitive to the responses of sentencers, of offenders to paying the Surcharge and of HMCTS enforcement.
91. The impact on victims is sensitive to whether the Surcharge is ordered on all offenders dealt with by means of an adult custodial sentence. We assume it is. The only instance in which it would not be ordered is if compensation is also ordered and the offender is unable to pay both (in which case the court may reduce the amount of the Surcharge if necessary to zero)., The impact on victims is also sensitive to the compliance rate for the Surcharge (the proportion of offenders who pay without any enforcement being undertaken) and the response of HMCTS enforcement to an increase in its workload due to non-compliance with the new impositions. The compliance rate and the response of HMCTS will determine the overall payment rate – which is a key determinant of revenue.
92. We have assumed that 60% of those given suspended sentences will pay, and 40% of those sentenced to immediate custody. However, there is significant uncertainty around these assumptions.
93. The value of the benefit to victims and witnesses, and to wider society is also sensitive to the value of the services the funding is spent on. We assume that £1 of spending is worth £1. However, the true social value could be higher or lower than this.
94. The impact on the CPS is sensitive to whether the Surcharge is ordered on all offenders dealt with by means of an adult custodial sentence. We assume it is. The only instance in which it would not be ordered is if compensation is also ordered and the offender is unable to pay both (in which case the court may reduce the amount of the Surcharge if necessary to zero)., The impact on the CPS is also sensitive to the compliance rate (the proportion of offenders who pay without any enforcement being undertaken) with costs orders falls as a result, and the response of HMCTS enforcement to an increase in its workload due to non-compliance with the new impositions (see below). The compliance rate and the response of HMCTS will determine the overall payment rate – which is a key determinant of revenue.
95. The impact on HMCTS depends on the scale of any increase in non-compliance, and its response.
96. If overall impositions increase, we expect at least some decrease in the compliance rate for financial impositions. This will increase the enforcement workload. The overall impact of the reforms on victims, the MoJ, HM Treasury and the CPS depend on resourcing decisions made in response. The main possibilities (which are not mutually exclusive) are:
- I. no response – HMCTS could simply not enforce any Surcharges that were not complied with, or any fines or cost orders that were no longer complied with as a result of the introduction of the Surcharge. There would be no additional costs to HMCTS under this scenario and no impacts on the collection of other financial impositions. However, the payment rate for the Surcharge and costs would be lower than it might otherwise be
  - II. an increase overall resources spent on enforcement – this would have a direct impact on MoJ (HMCTS) costs. However, it would mean there would be no impacts on the collection of other financial impositions, and the payment rate for the Surcharge and fines and costs imposed alongside custodial sentences would be higher than if there was no response
  - III. no increase in overall resources spent on enforcement, but a transfer of resources from other areas of work to enforce the Surcharge on custodial sentences – there would be no additional direct costs to HMCTS under this scenario. However, the amount collected from other financial impositions would fall, with possible impacts for a range of groups. The payment rate for the Surcharge and court ordered costs would be higher than if there was no response

## RESTRICTED

- IV. more efficient use of existing resources – there would be no additional costs to HMCTS under this scenario. There would also not necessarily be any impact on the collection of other financial impositions and the payment rate for the Surcharge and costs would be higher than if there was no response. It is not clear how much scope there is for increased efficiency, or how likely it is that the introduction of this Surcharge would prompt increased efficiency.
97. The impact of the reforms is also sensitive to changes in crime rates and sentencing policies and patterns. Changes to sentencing patterns may affect the number of suspended sentences and immediate custodial sentences handed down. In addition, the demographic profile of those given suspended sentences and immediate custodial sentences may change, which could affect the compliance and payment rates. Moreover, if the use of compensation orders for those given suspended sentences and immediate custodial sentences increases, less revenue may be collected from the Surcharge (as compensation takes priority).
98. The impact of this policy will also be dependant on the impact in the implementation of the Prisoners' Earning Act 1996 and the measures to deduct earnings from a wider group of prisoners contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012. These may leave offenders less able to pay any Surcharge.
99. As set out in the Note on Timing above, the extension of the Surcharge to offenders sentenced to custody in the magistrates' court will be implemented after the extension to the Crown Court (expected to be summer 2014 rather than October 2012). We assume that the behaviour of offenders in triable either way cases who currently elect to go to the Crown Court does not change during this transitional period, so the volume of offenders receiving custodial sentences in different courts does not change. If fewer offenders elected to go to the Crown Court, Surcharge revenue during the transition period might be lower. In addition, there could be temporary impacts on HMCTS, Legal Aid, the CPS and NOMS. We are not able to quantify these potential impacts, but they are outlined in the next paragraph.
100. If more offenders were to choose to be tried in the magistrates' court, there may be costs to the magistrates' courts through a greater number of cases being dealt with there. There may also be savings in time to HMCTS as cases prosecuted through the magistrates' court are shorter than Crown Court proceedings. There are potential legal aid savings if more cases are paid at the rates for magistrates' courts proceedings which are significantly lower than the rates paid for cases in the Crown Court. Similarly there may be savings to the CPS. The extent of any costs or savings depends not only on the behaviour of offenders but also on whether there is backfilling at the Crown Court (i.e. cases waiting to be heard are brought forward to replace any that move to the magistrates' court). If there is complete backfilling, there will not be any savings, but other Crown Court cases will have been processed more quickly. Lastly, there may be differences between sentences handed down in the magistrates' court and the Crown Court (within the magistrates' court sentencing powers). The evidence is not unequivocal, but if there were to be an increase in sentence lengths for these offenders, there would be a cost to NOMS. Note that any impacts would be temporary
101. The impacts of the reform are also sensitive to any independent changes in HMCTS enforcement practices.

### **b) Make the Surcharge payable when a court deals with a juvenile offender by way of:**

- i. a conditional discharge at a rate of £10;**
- ii. a fine or community sentence at a rate of £15;**
- iii. a custodial sentence of any length at a rate of £20;**

## **Costs**

### *Costs to MoJ (including HMCTS)*

102. The majority of sentences imposed on juvenile offenders do not include a financial element; the Surcharge would be a new (and often, the only) financial imposition. We are not able to predict the scale of this impact as these offenders do not currently receive financial impositions. The uncertainties around the response to an increase in HMCTS' enforcement workload set out under the reforms above apply here too.

## RESTRICTED

103. This reform applies a flat rate Surcharge across custodial sentences, community sentences (including youth rehabilitation orders, referral orders and reparation orders), fines and conditional discharges. HMCTS will have to administer the Surcharge on juvenile offenders separately from that on adult offenders, as it will be a different amount. HMCTS may therefore incur additional administrative costs.

### *Costs to the CPS (and other prosecutors)*

104. The Surcharge will take priority over costs both at the point of sentence and for payment. There may therefore be a reduction in costs ordered against and paid by juvenile offenders as a result of introducing the Surcharge.

### *Costs to Local authorities*

105. Where the juvenile offender is looked-after and is under the age of 16, the local authority will generally become responsible for paying the Surcharge. The court has a discretion to order the local authority to pay the Surcharge in respect of juvenile offenders aged 16 or over in its care. There is evidence to suggest that a substantial proportion of children in custody may be looked-after,<sup>10</sup> though data on juveniles sentenced to other types of disposal is not available. We are therefore not able to estimate the scale of this impact.

### *Costs to Parents of juvenile offenders*

106. Where the juvenile offender is under the age of 16, the parents or guardian of the juvenile offender will generally become responsible for paying the Surcharge; where the offender is aged 16 or 17, the court has discretion to order the offender's parents or guardian to pay the surcharge. As the court has discretion to order the parents to pay the Surcharge where the juvenile offender is aged 16 or over, we are not able to predict the likely size of this impact.

## **Benefits**

### *Benefits to victims*

107. This reform will increase revenue for victims' services. We do not have direct information on the likely payment rate for a Surcharge payable by juvenile offenders. We therefore assume the same payment rates as assumed above for adult offenders: 70% for conditional discharges; 60% for community orders; and 40% for immediate custodial sentences.
108. In 2011 6,800 conditional discharges, 41,100 community sentences and 4,100 immediate custodial sentences were handed down to juveniles.
109. Assuming these payment rates, and that the numbers of the relevant disposals remains round the 2011 levels, we estimate that this reform will increase revenue available for victims services by **£0.5m**. As there is considerable general uncertainty around the impact of these reforms, we also calculate a lower estimate based on applying 20% optimism bias. To the nearest £0.5m, this has no effect on the estimated annual benefit to victims, but it does affect the estimated 10 year present value of the benefits.
110. We assume that it will take 6 - 18 months from implementation for the reform to have its full impact. The average time from offence to sentencing is around 6 months. In at least some cases there will then be a further delay before the Surcharge is collected.
111. Victims may also value offenders taking greater responsibility for their crimes and doing more to repair the damage caused.

### *Benefits to providers and potential providers of support services*

112. Providers may derive satisfaction from being able to help more victims and witnesses due to increased funding being available.

### *Benefits to wider society*

113. There may be a societal benefit from a wider range of offenders contributing to the costs of victims' services.

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<sup>10</sup> The report by Berelowitz, S and Hibbert, P 'I think I must have been born bad' report for the Office of the Children's Commissioner into the mental health and emotional wellbeing of children in custody (2011) found that 33% have been in care.

**Net Impact, key assumptions, sensitivities and risks**

114. This reform will increase revenue for victims' services. We estimate this increase at £0.5m. It may have a negative impact on the CPS (and other prosecutors). However, as not all those who will be ordered to pay the Surcharge are currently ordered to pay costs, the impact on cost revenue is unlikely to be large enough fully to offset the increase in Surcharge revenue. We also expect an increase in HMCTS' enforcement workload.
115. The impacts of the reforms on victims, and the CPS (and other prosecutors) are highly sensitive to the responses of sentencers, of offenders to paying the Surcharge and of HMCTS enforcement.
116. The impact on victims is sensitive to whether the Surcharge is ordered on all juvenile offenders dealt with by means of a conditional discharge, community sentence or immediate custodial sentence. We assume it is. The only instance in which it would not be ordered is if compensation is also ordered and the offender is unable to pay both (in which case the court may reduce the amount of the Surcharge if necessary to zero)., The impact on victims is also sensitive to the compliance rate for the Surcharge (the proportion of offenders who pay without any enforcement being undertaken) and the response of HMCTS enforcement to an increase in its workload due to non-compliance with the new impositions. The compliance rate and the response of HMCTS will determine the overall payment rate – which is a key determinant of revenue.
117. The value of the benefit to victims and witnesses, and to wider society is also sensitive to the value of the services the funding is spent on. We assume that £1 of spending is worth £1. However, the true social value could be higher or lower than this.
118. The impact on the CPS is sensitive to whether the Surcharge is ordered on all juvenile offenders dealt with by means of a conditional discharge, community sentence or immediate custodial sentence. We assume it is. The only instance in which it would not be ordered is if compensation is also ordered and the offender is unable to pay both (in which case the court may reduce the amount of the Surcharge if necessary to zero)., The impact on the CPS is also sensitive to the compliance rate (the proportion of offenders who pay without any enforcement being undertaken) with costs orders falls as a result, and the response of HMCTS enforcement to an increase in its workload due to non-compliance with the new impositions (see below). The compliance rate and the response of HMCTS will determine the overall payment rate – which is a key determinant of revenue.
119. We have assumed that 70% of those given conditional discharges will pay, 60% of those given community sentence and 40% of those sentenced to immediate custody. However, there is significant uncertainty around these assumptions. Some juveniles may not have means to pay, and some parents ordered to pay may be unwilling to do so.
120. The impact on HMCTS depends on the scale of any increase in non-compliance, and its response.
121. If overall impositions increase, we expect at least some decrease in the compliance rate for financial impositions. This will increase the enforcement workload. The overall impact of the reforms on victims, the MoJ, HM Treasury and the CPS depend on resourcing decisions made in response. The main possibilities (which are not mutually exclusive) are:
- I. no response – HMCTS could simply not enforce any Surcharges that were not complied with, or any cost orders that were no longer complied with as a result of the introduction of the Surcharge. There would be no additional costs to HMCTS under this scenario and no impacts on the collection of other financial impositions. However, the payment rate for the Surcharge and costs would be lower than it might otherwise be
  - II. an increase overall resources spent on enforcement – this would have a direct impact on MoJ (HMCTS) costs. However, it would mean there would be no impacts on the collection of other financial impositions, and the payment rate for the Surcharge (and any costs imposed) would be higher than if there was no response



- III. no increase in overall resources spent on enforcement, but a transfer of resources from other areas of work to enforce the Surcharge on payable by juvenile offenders – there would be no additional direct costs to HMCTS under this scenario. However, the amount collected from other financial impositions would fall, with possible impacts for a range of groups. The payment rate for the Surcharge and costs would be higher than if there was no response
- IV. more efficient use of existing resources – there would be no additional costs to HMCTS under this scenario. There would also not necessarily be any impact on the collection of other financial impositions and the payment rate for the Surcharge and costs would be higher than if there was no response. It is not clear how much scope there is for increased efficiency, or how likely it is that the introduction of this Surcharge would prompt increased efficiency.

122. The impact of the reform is also sensitive to changes in crime rates and sentencing policies and patterns. Changes to sentencing patterns may affect the number and profile of sentences handed down to juveniles. In addition, the demographic profile of juvenile offenders given different sentences may change, which could affect the compliance and payment rates. Moreover, if the use of compensation orders for juveniles increases, less revenue may be collected from the Surcharge (as compensation takes priority).
123. The impact of this policy will also be dependant on the measures to deduct earnings from a wider group of prisoners contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012. These may leave offenders less able to pay any Surcharge.
124. The impacts of the reform are also sensitive to any independent changes in HMCTS enforcement practices.

### **c) To increase the value of Penalty Notices for Disorder (PNDs) by £10**

#### **Costs**

##### *Costs to MoJ (HMCTS)*

125. There are two possible costs to MoJ (HMCTS)
- I. There may be an increase in the enforcement workload if the increase reduces the payment rate, so that more PNDs are registered as fines. Typically around 40 per cent of PNDs issued are registered as fines each year.<sup>11</sup>
  - II. There may also be an increase in the court workload if the increase means more individuals opt to be tried in court. However, in 2011 only 1% of PND recipients requested a court hearing. In light of this, we expect any impact to be small in absolute terms.

##### *Costs to HM Treasury*

126. Currently PND revenue is paid into the Consolidated Fund; therefore there may be a cost from reduced payment of PNDs if the increase reduces the payment rate. It is important to note that (unlike for court-ordered financial impositions) part payment of PNDs is not possible. Therefore, unlike fines, rather than losing up to the value of the Surcharge in other revenue, a shift from payment to non-payment would result in upfront revenue being reduced by the full £80 (or £50) value of the PND. Some PNDs that are no longer paid upfront may nevertheless be collected once they are registered as fines. This will depend on the enforcement response to any increase in PNDs being registered as fines.
127. We do not have evidence to predict the possible impact of a £10 increase on the payment rate, so do not quantify the likely impact here.

#### **Benefits**

##### *Benefits to victims*

128. The reform will result in an increase in spending on services for victims. In 2011 121,300 PNDs were issued to over 18s and 54% of PNDs issued were paid in full. The average payment rate since 2005 has been 52%. At a payment rate of 54%, the reform would raise (to the nearest £0.5m) £0.5m for victims' services.<sup>12</sup> If the payment rate fell as a result of the increase, revenue

<sup>11</sup> Criminal Justice Statistics, Quarterly Update to December 2011 (Ministry of Justice)

<sup>12</sup> A 52% payment rate gives the same rounded estimate.

## RESTRICTED

would be lower. As there is considerable general uncertainty around the impact of these reforms, we also calculate a lower estimate based on applying 20% optimism bias. To the nearest £0.5m, this has no effect on the annual estimated benefit, but it does affect the estimated 10 year present value of the benefits.

129. Victims may also value offenders taking greater responsibility for their crimes and doing more to repair the damage caused.

### *Benefits to providers and potential providers of support services*

130. Providers may derive satisfaction from being able to help more victims and witnesses due to increased funding being available.

### *Benefits to Wider society*

131. There may be a societal benefit from a wider range of offenders contributing to the costs of victims' services.

## **Net impact , key assumptions, sensitivities and risks**

132. The reform will increase revenue for victims' services, by an estimated £0.5m, but may also reduce revenue to the consolidated fund.
133. In principle the net revenue impact could be negative, since where the increase results in an individual who would otherwise have paid their PND upfront not paying it, the loss of upfront revenue is £80 (or £50 for a lower-tier notice). Whether this is subsequently recouped depends on the availability and deployment of enforcement resources.
134. The estimated revenue is based on an assumption that the payment rate is 54%. This was the upfront payment rate for PNDs in 2011. The impacts are sensitive to a number of key variables
- I. the upfront PND payment rate and the impact of the increase on this payment rate
  - II. the proportion of PNDs registered as fines that are enforced currently, and the proportion that would be enforced following any increase
  - III. the number of PNDs issued
135. The value of the benefit to victims and witnesses, and to wider society is also sensitive to the value of the services the funding is spent on. We assume that £1 of spending is worth £1. However, the true social value could be higher or lower than this.
136. The impacts of the reforms are also sensitive to any independent changes in HMCTS enforcement practices.

## **Specific Impact Tests**

### **Statutory equality duties**

An Equality Impact Assessment is included as a separate document with the consultation response.

### **Competition Assessment**

Will the reforms:

1. **Directly limit the number or range of suppliers?** No.

(In principle higher financial impositions as a result of an increase in the Surcharge could cause a company that had committed an offence to go out of business, where it would not have under the "do nothing" scenario.

However, the maximum Surcharge that could be imposed under the reforms is £120. In addition, the sentencing guidelines state that "care should be taken to ensure that fines imposed on smaller companies are not beyond their capability to pay. The court might not wish the fine to result in the

company not being able to pay for improved procedures or to cause the company to go out of business".<sup>13</sup>

Therefore we would expect sentencers to reduce other elements of the imposition rather than allow it to rise as a result of the Surcharge to a level that could result in a business closing.)

2. **Indirectly limit the number or range of suppliers?** No
3. **Limit the ability of suppliers to compete?** No
4. **Reduce suppliers' incentives to compete vigorously?** No

## **Small Firms Impact Test**

The reforms to increase the Surcharge applied to fines is likely to impact upon businesses found guilty of criminal offences. Only quite a small number of fines are given to businesses each year. 6,900 fines were given to "other" offenders in 2011 – whereas ONS data shows there were 2.1m business registered for VAT and/or PAYE in March 2010<sup>14</sup>. This category covers businesses but also public sector bodies.

The businesses affected will include small firms and sole traders. However, we do not have any evidence on the size of businesses given fines and so can't be sure whether a disproportionate number of small businesses are likely to be affected compared to their representation in the private sector as a whole.

Whether setting the Surcharge at 10% of the fine, with a minimum of £20 and a £120 maximum Surcharge level is likely to have a larger impact on small businesses than large businesses depends on if small businesses tend to receive fines under or above £1200. If small businesses receive fines of under £1200, then they will not have their Surcharge capped. The proportionate increase in imposition could then be larger for small businesses. However, as mentioned above sentencers are expected to ensure the overall imposition is in line with the offender's ability to pay.

Extending the Surcharge to conditional discharges, community sentences and custodial sentences will affect sole traders who are found guilty of criminal offences and other individuals convicted of offences related to their business activities (e.g. directors of companies).

Increasing the value of PNDs by £10 will impact on any businesses such as sole traders who are given a PND.

Extending the Surcharge to juvenile offenders is unlikely to impact on business as these reforms only affect under 18s.

We do not think it would be appropriate to exempt or adopt an alternative approach for small businesses. In order to be subject to the Surcharge a business needs to have committed an offence, and we do not think it appropriate to distinguish between offenders on grounds of whether they are a small business. As noted above, these impacts are not counted in this Impact Assessment as they will only fall on businesses/individuals convicted of criminal offences or who are issued with a PND.

## **Carbon Assessment**

We do not expect these reforms to have an impact on the emission of greenhouse gases.

## **Other Environment**

We do not expect these reforms to have any other environmental impacts

## **Health Impact Assessment**

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<sup>13</sup> Magistrates' Court Sentencing Guidelines, Sentencing Guidelines Council, 2008

<sup>14</sup> <http://www.statistics.gov.uk/cci/nugget.asp?id=1238>

## RESTRICTED

- Will your policy have a significant impact on human health by virtue of its effects on the following wider determinants of health? : Income; crime; environment; transport; housing; education; employment; agriculture; social cohesion.

There may be an impact on the income of offenders who are sentenced to fines as a result of them receiving a larger Surcharge when fined in court (at least £20, rather than £15 at present). However we do not expect a significant impact as the offender's means are taken into account at the time of sentence. For conditional discharges, community sentences, suspended and immediate custodial sentences we do not believe the level of the Surcharge and increase in the value of PNDs would impact unduly on individuals' income for the reasons given below.

Where an offender's income makes payment of the Surcharge more difficult, HMCTS has a range of enforcement tools which may mitigate this impact. HMCTS would collect the Surcharge in the same manner as existing financial impositions awarded by a court. They have in place a number of payment methods that make it easy for offenders to pay financial impositions, these include payment cards and payment by credit and debit card both online and via a telephone payment line. These payment methods are actively promoted by enforcement teams and offenders are directed to the methods that are most appropriate and convenient for them. There are also payment methods which allow offenders, who are unable to pay in full at once, to pay financial impositions including the Surcharge over a period of time. This includes deduction from benefits orders and attachment of earnings orders which allows the court to deduct payments for outstanding financial penalties from the offenders' benefits or salary.

- Will there be a significant impact on any of the following lifestyle related variables? : Physical activity; diet; smoking, drugs or alcohol use; sexual behaviour; accidents and stress at home or work.

There may be a beneficial impact on the health of victims of crime. Additional funding for services should mean victims receive better support and therefore may experience less stress following the incident.

- Is there likely to be a significant demand on any of the following health and social care services? : Primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services; health protection and preparedness response.

We do not anticipate a significant impact on these variables.

### **Human Rights**

Policy reforms to increase and extend the Victim Surcharge have been developed to conform with the Human Rights Act, in particular with Article 1 Protocol 1 (Protection of Property) of the European Convention on Human Rights.

### **Justice Impact Test**

Impacts are covered in the main IA.

### **Rural proofing**

We do not expect these reforms to have an impact on the circumstances and needs of rural people and places.

### **Sustainable Development**

We do not anticipate that policy reforms will have a negative impact on any of the following principals of sustainable development:

- Living within environmental limits;
- Ensuring a strong, healthy and just society;
- Achieving a sustainable economy;
- Promoting good governance;

- Using sound science responsibly.

The policy reforms should, however, have a positive impact on ensuring a strong, healthy and just society. Offenders bearing a greater proportion of the cost incurred by the state to help fund victims services will contribute to helping victims cope and recover.

**Privacy Impact Test (an MoJ Specific Impact Test)**

There may be an impact to the operational processes of HMCTS in enforcing the reforms. A Privacy Impact Test will be conducted when required.

**Annex 1: Post Implementation Review (PIR) Plan**

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

**Basis of the review:**

We will conduct a review of both operational implementation and policy impacts.

**Review objective:**

Operational review after 6 and 18 months to determine whether the changes have been properly implemented, whether there are implementation issues that need addressing and to identify the additional receipts due to these changes.

Policy review 3 years after implementation to identify and quantify impacts, including any unintended impacts.

**Review approach and rationale:**

Operational review to be conducted in partnership with HMCTS using data from Libra and qualitative research (court staff, magistrates, Judiciary).

Policy review will be commissioned to test the success of the policy objectives and quantify the impacts identified in the Impact Assessment, in particularly on HMCTS, HMT and CPS. This will be a mix of qualitative and quantitative research, undertaken by MoJ Analytical Services. Exact requirements will be defined at the time.

**Baseline:**

Surcharge receipts in the full year prior to implementation, the values of fines imposed in that year and the payment rates for fines and PND

**Success criteria:**

Increase in Surcharge revenue, consistent application of the Surcharge limited reduction in other revenue,

**Monitoring information arrangements:**

Sentencing and PND imposition and payment rate data is collected regularly by the MoJ. HMCTS have proposals to improve their data on enforcement, which will make it easier to assess payment rates. No additional data will be required.

**Reasons for not planning a PIR: N/A**

<b>Title:</b> Funding victims' services using FPN revenue <b>IA No:</b> MoJ160 <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> -	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 02/07/2012		
	<b>Stage:</b> Consultation Response		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Other		
<b>Contact for enquiries:</b> victimsconsultation@justice.gsi.gov.uk			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status
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**Cost of Preferred (or more likely) Option**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
£0m	N/Q	N/Q	No	NA

**What is the problem under consideration? Why is government intervention necessary?**  
 The government believes that victims and witnesses of crime would benefit from increased spending on support services, and that more of the funding for services should come from those who commit offences, including motoring offences.

**What are the policy objectives and the intended effects?**  
 The objective of the policy is to increase spending on support services for victims and witnesses of crime, with funding coming from financial impositions paid by offenders.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
**Option 0:** Do nothing  
**Option 1:** Use revenue from the Department for Transport's proposed increase in the level of Fixed Penalty Notices (FPNs) for motoring offences to increase spending on support services for victims and witnesses of crime, by a maximum of £30m.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 01/2016

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/Q	<b>Non-traded:</b> N/Q	

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ Date: \_\_\_\_\_

## Summary: Analysis & Evidence

## Policy Option 1

**Description:** Use revenue from the Department for Transport's (DfT) proposed increase in the level of Fixed Penalty Notices (FPNs) for motoring offences to increase spending on support services for victims and witnesses of crime, by a maximum of £30m.

### FULL ECONOMIC ASSESSMENT

• Price Base Year	PV Base Year	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:0	High:0	Best Estimate: -

COSTS (£m)	Total Transition (Constant Price, nrst £1m) Years	Average Annual (excl. Transition) (Constant Price, nrst £5m)	Total Cost (Present Value, nrst £5m)
Low	3	10	80
High	7	30	230
Best Estimate			

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

HM Government: £10m - £30m of revenue from increasing the level of Fixed Penalty Notices for motoring offences will be spent on support services for victims and witnesses of crime.

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

BENEFITS (£m)	Total Transition (Constant Price, nrst £1m) Years	Average Annual (excl. Transition) (Constant Price, nrst £5m)	Total Benefit (Present Value, nrst £5m)
Low	3	10	80
High	7	30	230
Best Estimate			

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

Victims and witnesses of crime: £10m – £30m more will be spent on support services for victims and witnesses of crime.

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

Providers (and potential providers) of support services for victims and witnesses: providers may derive satisfaction from being able to help more victims and witnesses due to increased funding being available. Wider society: Wider society may value the fact that money raised from offenders is being spent on support services for victims and witnesses rather than other government activities; if increasing spending on support services helps victims to cope better with the effects of crime and recover faster, there may be wider benefits in terms of less demand on health and other services, and increased economic activity.

#### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The amount of revenue raised from Fixed Penalty Notices, and therefore the cost to the government and benefit to victims and witnesses, depends on:

- the outcome of the consultation on increasing the value of FPNs from the Department for Transport. The monetised estimates assume an increase of £30 on endorsable and seat belt offences, £15 on non-endorsable offences (excluding parking) and a 50% increase for driving without insurance
- the number of FPNs for motoring offences issued. In addition to general fluctuations, the number of endorsable FPNs issued would be affected by more drivers taking up remedial training, and any reductions in safety camera enforcement or increases in other enforcement. (See evidence base for details.)
- the payment rate of FPNs for motoring offences. DfT assume payment rates remain at 2009 levels for their best and high estimates, and adjust downwards for the low estimate to reflect higher non-payment rates as a result of higher level of FPNs.
- further detailed decisions on the proportion of total revenue raised from increases to FPNs that will be spent on support services for victims of crime.

The value of the benefit to victims and witnesses, and to wider society is also sensitive to the value of the services the funding is spent on. We assume that £1 of spending is worth £1 in terms of its value to society.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: N/Q	Net: N/Q	No	NA



## Evidence Base (for summary sheets)

### Introduction

1. This impact assessment is one of a group of impact assessments to accompany the consultation on the strategy for victims and witnesses. Other impact assessments in the consultation will focus on:
  - An overarching impact assessment on the overall impact of all of the reforms
  - Quality and Outcomes in Support Services
  - Locally led commissioning of victim services
  - Increasing and extending the Victim Surcharge, and increasing the value of Penalty Notices for Disorder to fund victims' services
  - Reforms to the Criminal Injuries Compensation Scheme
  - Compensation for victims of overseas terrorism
2. In May 2011 the Department for Transport (DfT) published its Strategic Framework for Road Safety, which set out a package of measures that would continue to reduce death and injuries on our roads. This included the proposal to increase the level of some road traffic Fixed Penalty Notices (FPNs). The DfT's recently issued *Consultation on changes to the treatment of penalties for careless driving and other motoring offences*, considers this measure, the scope for which has been broadened to include the following proposals:
  - Increase the level of FPNs for endorsable offences and seat belt offences from £60 to £90
  - Increasing the level of FPNs for other non-endorsable offences (excluding parking offences) from £30 to £45
  - Increasing the level of FPNs for driving without insurance by 50%.
3. Penalty levels for many motoring offences have not increased since 2000. The current levels have fallen behind other fixed penalties, such as Disorder, and therefore risk trivialising the offences. The proposed increases for motoring offences include those in relation to speeding, control of a vehicle, using a mobile phone whilst driving, ignoring signals and pedestrian crossings and failure to wear a seatbelt. The exact amount of the increases will depend on a detailed assessment of what effect the increases would have on payment rates and on the outcome of the DfT's public consultation.

### Problem under consideration and Policy Objective

4. The government believes that victims and witnesses of crime would benefit from increased spending on support services, and that more of the funding for services should come from those who commit offences, including motoring offences.

### Economic Rationale

5. The conventional economic rationale for government intervention is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more needy groups in society).
6. The proposal in this impact assessment is intended to increase fairness, by increasing the amount spent on support services for a needy group in society – victims and witnesses of crime.

### Groups affected

7. This proposal will affect:

- victims and witnesses of crime
- providers of support services for victims and witnesses of crime
- government
- wider society

### Note on territorial application

The proposals in this Impact Assessment apply to England and Wales.

### Costs and Benefits of Options

#### Option 0: Do nothing

8. Under this option, any revenue raised from increasing the level of Fixed Penalty Notices would be retained by the government and spent on other activities.
9. The amount of revenue raised depends on the outcome of the Department for Transport's consultation, the number of FPNs issued in future and the payment rate.
10. Because the do-nothing option is compared against itself its costs and benefits and necessarily zero, as is its Net Present Value (NPV)<sup>1</sup>.

**Option 1:** Use revenue from the DfT's proposed increase in the level of Fixed Penalty Notices (FPNs) for motoring offences to increase spending on support services for victims and witnesses of crime, by a maximum of £30m.

11. It is uncertain how much additional revenue will be made. In particular, the size of any increase in the levels of different FPNs and the increase in the amount spent on support services for victims and witnesses of crime depends on the outcomes of consultation from the DfT. Under the reform, some of the money raised (up to a maximum of £30m) will be spent on support services for victims and witnesses and the remainder on other government activities. Further detailed decisions will be made on the proportion of total revenue raised that will be spent on support services.
12. Timing assumption: all the impact assessments published as part of this consultation response assume the same starting date – July 2012. We expect an increase in FPNs to take effect from April 2013. Therefore the impact in the first year is smaller than in future years, as the policy is only in place for 3 months of the year.

#### Costs of reform 1

##### *Costs to government*

13. Once fully implemented this proposal will reduce the amount of money available for government spending on activities (other than support services for victims and witnesses of crime) by £10m - £30m per year (estimates to the nearest £5m).
14. To estimate the impact of this option, we assume that the proposals for increasing the levels of FPNs in the DfT's *Consultation on changes to the treatment of penalties for careless driving and other motoring offences* are implemented as proposed.
15. The DfT estimate that these proposals will raise between £15m and £50m. The best estimate of the increase in Government revenue is £30m. (All rounded to the nearest £5m.)
16. For details of these calculations and the underlying assumptions, please see the DfT's Impact Assessment. This is available at <http://www.dft.gov.uk/consultations>. The key risks and assumptions are also set out below.
17. Of this, a maximum of £30m would be spent on support services for victims of crime. As further detailed decisions will be made on the proportion of total revenue raised that would be spent on support services, there is some uncertainty around the cost of this reform if revenue from increasing the level of FPNs is low. We therefore estimate the cost to government of this reform at £10m - £30m.

<sup>1</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

**Benefits of option 1***Benefits to victims and witnesses*

18. This proposal is estimated to increase spending on support services for victims and witnesses of crime by £10m - £30m per year once fully implemented.
19. This estimate is based on the same assumptions as those used to estimate the cost to government – and subject to the same uncertainties.
20. Assuming further that the monetised value of the additional support services is equal to the amount spent on them (so £1 spent on support services is worth £1 to victims and witnesses) then the benefit to victims and witnesses will be in the range £10m - £30m. The actual value is likely to depend on what the money is spent on.

*Benefits to providers (and potential providers) of support services to victims and witnesses*

21. More funding will be available so providers of support services will be able to help more victims and witnesses. As providers are typically voluntary sector organisations (and some social enterprises) they will not make profits. However, they are likely to derive satisfaction from providing services.

*Benefits to wider society*

22. Wider society may value the fact that money raised from offenders is being spent on support services for victims and witnesses rather than other government activities.
23. In addition, it is possible that the support services themselves may generate benefits to wider society. If increasing spending on support services helps victims to cope better with the effects of crime and recover faster, there may be wider benefits in terms of less demand on health and other services, and increased economic activity.

**Net impact of option 1, assumptions, risks and sensitivities***Net impact*

24. The net financial impact of this proposal is neutral – there is simply a transfer from government to support services for victims and witnesses.
25. The net social impact depends on the value of spending on support services for victims and witnesses of crime relative to other possible activities. We assume that £1 spent on support services is worth £1 in terms of its value to society. However, it is possible that £1 spent on support services might be worth more or less than £1 to society. Note that even if it is not worth more than £1 to victims and witnesses, it might be worth more than this to society as a whole. This would be true if, for example, by helping victims and witnesses to cope and recover support services reduced demand for health or other services, or increased economic activity.

*Key assumptions, risks and sensitivities*

26. The impacts are sensitive to the outcome of the consultation on increasing the value of FPNs from the Department of Transport. If FPNs are increased by a larger or smaller amount, this may affect the amount spent on additional support services for victims and witnesses. They are also sensitive to detailed decisions on how to allocate additional revenue from FPNs across different areas of Government spending.
27. The impacts are also sensitive to the number of FPNs issued that are affected by the proposed increases, and the payment rates for these affected FPNs.
28. The assumptions underlying the DfT's high, low and central estimates are outlined below (for more detail see the DfT's Impact Assessment).
29. For endorsable offences and seat belt offences, DfT assume three scenarios for the number of FPNs issued:
  - a high scenario in which the number of these FPNs issued remains at 2009 levels (1.6m)
  - a central scenario in which the number of these FPNs falls to 1.1m due to increased take up of remedial training by drivers
  - a low scenario in which the number of these FPNs falls to 0.9m due to increased take up of remedial training by drivers (0.5m) and a further decline in speeding enforcement (0.2m) that is not offset by increased enforcement of other offences.

30. For non-endorsable offences (excluding parking offences and seat belt offences) DfT also assume three scenarios:
- a high scenario in which the number of these FPNs increase by 20% from 2009 levels
  - a central scenario in which the number of these FPNs remains at 2009 levels
  - a low scenario in which the number of these FPNs falls by 20% from 2009 levels
31. Precise data on the volume of FPNs issued for driving without insurance is not available (because the police often take action against offenders who commit both insurance and driving license offences together). DfT assume around 30,000 of these FPNs are issued per year for all scenarios.
32. The high and central scenarios both assume that payment rates remain at 2009 levels for all offences.
33. The low scenario assumes a fall in payment rates:
- for endorsable offences (which includes driving without insurance) the payment rate is assumed to fall from 97% to 95.5% in the low scenario
  - for non-endorsable offences (which include seat belt offences) the payment rate is assumed to fall from 73% to 70%.
34. The value of the benefit to victims and witnesses, and to wider society is also sensitive to the value of the services the funding is spent on. We assume that £1 of spending is worth £1.

## **Specific Impact Tests**

### **Statutory equality duties**

An Equality Impact Assessment is included as a separate document in this consultation.

### **Competition Assessment**

These proposals are not expected to affect suppliers' ability or incentives to compete.

### **Small Firms Impact Test**

These proposals are not expected to have any particular impacts on small firms. It is possible that some of the additional revenue will be used to fund support services for victims and witnesses provided by social enterprises, which may be small firms. In this case, they would benefit.

### **Carbon Assessment**

We do not expect these proposals to have an impact on the emission of greenhouse gases.

### **Other Environment**

We do not expect these proposals to have any other environmental impacts.

### **Health Impact Assessment**

- Will your policy have a significant impact on human health by virtue of its effects on the following wider determinants of health? : Income; crime; environment; transport; housing; education; employment; agriculture; social cohesion.

We do not expect significant impacts on any of these wider determinants of health. If support services help victims to cope with and recover from the effects of crime, there may be a positive impact on economic activity, and therefore income, among this group.

- Will there be a significant impact on any of the following lifestyle related variables? : Physical activity; diet; smoking, drugs or alcohol use; sexual behaviour; accidents and stress at home or work.

Increased spending on support services for victims and witnesses of crime may have a positive impact by helping them to cope with and recover from the effects of crime, reducing stress.

- Is there likely to be a significant demand on any of the following health and social care services? : Primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services; health protection and preparedness response.

No. If support services help victims to cope with and recover from the effects of crime, there may be reduced demand for health and social care services.

### **Human Rights**

We believe the proposals are compliant with the Human Rights Act.

### **Justice Impact Test**

We do not expect any significant impacts on the justice system, though increased spending on support services for victims and witnesses might make them more willing to assist with bringing offenders to justice.

### **Rural proofing**

We do not expect the impacts of these proposals to differ between rural and urban areas.

### **Sustainable Development**

These proposals are consistent with the principles of sustainable development, in particular those of a just society.

### **Privacy Impact Test (an MoJ Specific Impact Test)**

Not relevant.

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b></p> <p>No specific review is planned for this policy. However, it will be reviewed as part of wider monitoring of the policies in this strategy.</p>
<p><b>Review objective:</b> N/A</p>
<p><b>Review approach and rationale:</b> N/A</p>
<p><b>Baseline:</b> N/A</p>
<p><b>Success criteria:</b> N/A</p>
<p><b>Monitoring information arrangements:</b> N/A</p>
<p><b>Reasons for not planning a PIR:</b></p> <p>It is intended to review the policy between three and five years after the implementation date. The review will form part of wider monitoring of policies introduced in this strategy to improve services for victims and witnesses of crime.</p>

<b>Title:</b> Reform of the Criminal Injuries Compensation Scheme <b>IA No:</b> MoJ161 <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> Criminal Injuries Compensation Authority, Scottish Government	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 02/07/2012
	<b>Stage:</b> Consultation Response
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
<b>Contact for enquiries:</b> victimsconsultation@justice.gsi.gov.uk	

**Summary: Intervention and Options****RPC Opinion:** RPC Opinion Status**Cost of Preferred (or more likely) Option**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as One-Out?
£10m - £15m	N/Q	N/Q	No	NA

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

The Criminal Injuries Compensation Scheme (CICS) makes payments to victims of violent crime with no recourse to other sources of compensation. It is a demand-led scheme which costs the Government over £200m each year and has historically been underfunded, with funding allocated at the beginning of the financial year needing to be topped up later in the year.

The review of the Scheme has taken place in a difficult financial climate. The Government believes that payments to those victims who are most seriously affected by their injuries and where the impacts are long-term and life-changing should be protected as far as possible. However, it also believes that it is more sensible and beneficial for victims with less serious injuries to receive immediate practical and emotional support, rather than financial compensation.

Services for victims are now far more readily available than in the mid 1990s when the statutory compensation scheme was established, and other reforms to be implemented alongside CICS reform aim to raise additional sums from offenders to be spent on services for victims of crime, including violent crime, so that in the long run the annual amount spent on victims overall is not reduced.

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

The Government seeks reform of the Scheme and aims to make it more sustainable long term by focusing resources on those victims most affected by their injuries. The revised scheme will be less resource-intensive to administer. Our reforms, which reduce the cost of the CICS, fit with our plans to raise a similar additional amount from offenders to be used to pay for new services for victims (of all types of crime).

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

Base Case: Do nothing

Policy reform: Reform the Criminal Injuries Compensation Scheme in the following ways:

- a) Clarifying eligibility for the scheme and changing the scope of the scheme. Payments will not be made;
  - i. to railway employees who are mentally injured as a result of witnessing or being involved in the immediate aftermath of offences connected with trespass on the railway including suicide or attempted suicide,
  - ii. where a person has been the victim of an animal attack, unless the animal itself was used deliberately to inflict injury on that person,
  - iii. to third parties injured inadvertently by an act the sole purpose of which is suicide (clarification of current scheme) and
  - iv. as now, in the case of certain criminal offences to which the claimant has consented in fact but is deemed not to have consented as a matter of criminal law (clarification of current scheme)
- b) excluding those who cannot show they are ordinarily resident at the time of the incident in the United Kingdom with the exception of;
  - i. British Citizens and their accompanying close relatives
  - ii. EU and EEA nationals and their accompanying family members
  - iii. a national of a state party to the European Convention on the Compensation of Victims of Violent Crime,
  - iv. members of Her Majesty's United Kingdom Armed Forces and their accompanying close relatives;
  - v. conclusively identified victims of trafficking and

- vi. a person who has been granted asylum, temporary protection or humanitarian protection.
- c) requiring that an offence be reported to the police (rather than another body) as soon as reasonably practicable, and that the applicant cooperate so far as practicable in bringing the assailant(s) to justice;
- d) making awards to under 18s where previously it would have been deemed against their interest;
- e) excluding all of those with an unspent criminal conviction resulting in custody or a community order. In other cases an award will be reduced or withheld unless there are exceptional circumstances. Applicants with motoring offences for which the only penalty imposed was one or more of an endorsement, penalty points or a fine under Schedule 2 to the Road Traffic Offenders Act 1988 will be exempt from this provision and will not generally have their awards reduced. In fatal cases convictions of the claimant will be relevant but those of the deceased will not, except in exceptional circumstances. The conduct of the deceased will still be relevant. Payments should not be withheld or reduced solely because alcohol or drugs increased an applicant's vulnerability to attack;
- f) removing tariff bands 1 – 5 (less serious injuries);
- g) (i) reducing payments by £1500 in band 6 to £1000, by £1800 in band 7 to £1500 and by £2000 in bands 8 – 12 (no change to bands 13 – 25);
- h) retaining fatal injury awards and awards for sexual assault and for physical abuse (including those in bands 1 – 5) at their current values;
- i) amending the tariff to better reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia injuries;
- j) no longer distinguishing between mental and physical injuries when calculating multiple injury awards (but maintaining the current provision in relation to victims of sexual offences who also suffer mental injury);
- k) paying all applicants eligible for a loss of earnings award an annual flat rate payments equivalent to Statutory Sick Pay and not reducing awards to reflect an applicant's other sources of income. Loss of earnings will be paid only to those with no, or very limited, earning capacity. We would no longer pay for diminution of earnings;
- l) changing the funeral payments policy, enabling CICS claims officers to pay £2,500 up front to the deceased's estate and where the applicant can demonstrate that total costs are reasonable, make further funeral payments up to a total maximum of £5,000;
- m) removing the special expenses payments for private medical care not available on the NHS;
- n) introducing new discount tables for payments for future loss based on an underlying discount rate of 2.5% (the current rate is 4.5%)\*;
- o) increase the onus on applicants to provide evidence for their case, while clarifying the application process by:
  - i. maintaining the existing time limit for applications for compensation (two years from the date of the incident) and introducing clearer rules on the time limits for applications from those who were children at the time of the incident;
  - ii. maintaining the onus on the applicant to make out their case, but clarifying what evidence the applicant will be required to provide as a minimum. This includes initial expert/medical evidence that an injury has been sustained;
  - iii. tightening the circumstances where CICA will meet the costs of obtaining expert (mainly medical) evidence including a new requirement that the applicant contribute up to £50 towards the cost of obtaining medical evidence in support of their claim either initially or when the final award is made and enabling CICA to deduct costs associated with medical expenses where an applicant misses appointments that CICA is paying for without reasonable excuse.
  - iv. Introducing new provision enabling a claims officer to defer a decision on an application where the applicant has been referred to a United Kingdom competent authority as a potential victim of trafficking in human beings or has made an application for asylum.
  - v. reducing the period for applicants to accept, or request a review of, their award from 90 to 56 days;
  - vi. extending the circumstances where repayment of all or part of the award may be requested to cover circumstances where it comes to light that the applicant had not cooperated in bringing their assailant to justice or the applicant deliberately misled the claims officer when making their application;
  - vii. when it becomes apparent that a claims officer has made an error on review, allowing CICA (with the agreement of the applicant) to withdraw the decision before the appeal is heard so that the appeal falls and a fresh decision can be issued;
  - viii. undertaking further consideration of how we might implement powers to recover money from offenders where criminal injuries compensation has been paid to their victims in a cost-effective way.

\*NB The consultation did not include a specific proposal on changing the discount tables

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 10/2015					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/Q		<b>Non-traded:</b> N/Q

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***



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

# Summary: Analysis & Evidence

# Policy Reform

Description: Reforms to the Criminal Injuries Compensation Scheme

## FULL ECONOMIC ASSESSMENT

• Price Base Year	PV Base Year	Time Period Years	Net Benefit <sup>1</sup> (Present Value (PV)) (£m, nrst £5m)		
			Low: 10	High: 15	Best Estimate:
	2011/12	10			
COSTS (£m)		Total Transition (nrst £5m) (Constant Price) Years	Average Annual (nrst £5m) (after. Transition) (Constant Price)	Total Cost (Present Value, nrst £5m)	
Low	55	2	35	295	
High	100		55	445	
Best Estimate					
<p><b>Description and scale of key monetised costs by 'main affected groups'</b></p> <p><i>People eligible for the current CICS:</i> awards no longer paid to: railway employees who are mentally injured as a result of witnessing or being involved in the immediate aftermath of offences connected with trespass on the railway including suicide or attempted suicide; those with one or more unspent criminal convictions resulting in custody or a community order, victims with injuries in bands 1-5 of the tariff (except victims of sexual and physical abuse). Reduction in tariff awards paid to victims with injuries in bands 6 – 12 (except victims of sexual and physical abuse). Changes to awards for hemiplegia, paraplegia and tetraplegia. Payments no longer made for private health care. Change in payments to those who remain eligible for loss of earnings or dependency payments under the CICS. Total reduction in payments estimated at around £35m - £55m per year (in real terms, or £40m - £60m nominal).</p>					
<p><b>Other key non-monetised costs by 'main affected groups'</b></p> <p><i>Personal Injury Lawyers and others who support victims in applying for compensation:</i> transition costs of learning new scheme, reduced demand for services due to tighter eligibility criteria.  Non-EU/EEA nationals without ordinary residency: no entitlement to compensation under the CICS  <i>People currently eligible for the CICS:</i> tightening of eligibility criteria and increased onus on applicants to provide evidence to support their claim  MoJ (HMCTS): possible increase in applicant appeals as a result of the reforms, possible increase in civil damages cases*  MoJ/Scottish Government (CICA) : cost of implementing and training staff in new scheme, possible cost of defending additional internal reviews and appeals  Other Government Departments and NHS: administrative costs of checking applicants have ordinary residence or who are exempt from residency requirements, possible increase in demand for benefits due to likely reduction in loss of earnings payments, possible increase in demand for health care or local authority provision *</p> <p>* NB the scheme is already one of last resort, which should limit these costs</p>					
BENEFITS (£m)		Total Transition (nrst £5m) (Constant Price) Years	Average Annual (nrst £5m) (after Transition) (Constant Price)	Total Benefit (Present Value, nrst £5m)	
Low	55	2	35	300	
High	100		55	455	
Best Estimate					
<p><b>Description and scale of key monetised benefits by 'main affected groups'</b></p> <p><i>MoJ/Scottish Government:</i> estimated reduction in compensation paid of £35m - £55m per year (in real terms); reduction in cost of CICA's administration of £1 - £1.5m per year (may not be cashable in the short term)</p>					

<sup>1</sup> NB totals may not sum due to rounding

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

*Ministry of Justice/Scottish Government:* additional reductions in compensation paid due to excluding non-EU/EEA citizens without ordinary residency

*People eligible for the current CICS:* clearer eligibility and application requirements and application process; multiple injury awards paid for mental injury in the same way as physical injury; up front payment of some funeral expenses; increase in payments for future special expenses and loss of parental services due to reduction in discount rate.

*Wider economic benefits:* these reforms would contribute to a reduction in Government fiscal deficit

**Key assumptions/sensitivities/risks**

**Discount rate (%)** 3.5

Demand for the scheme has fluctuated in the past, and it is difficult to predict future demand as it depends on crime rates. The high estimates of costs and benefits assume the number of applicants who would be eligible under the proposed new criteria remains stable at 2009/10 levels, with the same distribution across injury types. They also assume the number of applicants who would receive minor injury awards under the current scheme but who successfully apply for higher tariff bands after reform is negligible. The low estimates assume 10% optimism bias including the possibility that some of those with minor injuries make successful claims for higher bands. For the transitional period, the low estimate also assumes that some victims bring their applications forward so that they qualify for the current scheme rather than the reformed scheme (so the reduction in compensation paid is smaller)

We assume that the number of loss of earnings applicants remains stable and that future applicants are similar to those in a sample of cases used to derive estimated impacts. However, there is particular uncertainty around the impacts of the reforms to loss of earnings as the number of claimants per year is small, and payments under the current system depend on a number of factors including earnings and benefit entitlements.

Monetised costs and benefits are expressed in terms of annual managed expenditure (AME). We assume that tariff payments remain constant in nominal terms, but that loss of earnings payments will rise in line with inflation.

**BUSINESS ASSESSMENT**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
<b>Costs:</b> N/Q	<b>Benefits:</b> -	<b>Net:</b> N/Q	No	NA

## Evidence Base (for summary sheets)

### Introduction

- 1) This Impact Assessment accompanies a Ministry of Justice consultation response on policy for Victims and Witnesses which includes a consultation on the Criminal Injuries Compensation Scheme (CICS). It sets out plans to make the scheme more affordable and efficient in the long term. The CICS is a Government sponsored scheme which is administered by the Criminal Injuries Compensation Authority (CICA).
- 2) This impact assessment is one of a group of impact assessments to accompany the consultation response on the strategy for victims and witnesses. Other impact assessments on the consultation response will focus on:
  - An overarching impact assessment on the overall impact of all of the reforms
  - Quality and Outcomes in Support Services
  - Locally led commissioning of victim services
  - Increasing and extending the Victim Surcharge, and increasing the value of Penalty Notices for Disorder to fund victims' services
  - Using money raised from motoring Fixed Penalty Notices increased by the Department of Transport to fund victims' services
  - Compensation for victims of overseas terrorism
- 3) CICS pays compensation to victims of violent crime. It currently pays compensation in two main ways. First, it makes a tariff payment in recognition of the victim's pain and suffering. Second, where the applicant is unable to work for at least 28 weeks, payments may also be made for loss of earnings and special expenses costs (such as care costs, medical treatment, adaptations to property and nursing). In addition, where the victim dies as a result of a violent crime, the CICS makes awards to close relatives for pain and suffering, as well as payments for funeral costs, to bereaved dependents for financial loss and to bereaved children for loss of parental services.
- 4) Injuries are graded into 25 tariff bands for payment of pain and suffering awards, according to their seriousness. These currently range from £1,000 for injuries such as fractured fingers and sprained ankles (tariff band 1) through to £250,000 for quadriplegia or severe brain damage (tariff band 25). In some cases the tariff band an injury falls into will depend on how long the effects last as well as the nature of the injury.
- 5) Loss of earnings and special expenses awards are only payable where the applicant has been incapacitated as a result of the injury for at least 28 weeks (because statutory sick pay is available for the first 28 weeks). The maximum total award in any one case is £500,000 including loss of earnings and special expenses.
- 6) In 2009/10, there were about 65,000 applications to the CICS, and awards totalling £209m were paid to about 38,000 individuals. Of these, around 350 individuals received payments for special expenses and around 1,100 for loss of earnings.
- 7) The Criminal Injuries Compensation Scheme makes payments to victims of violent crime with no recourse to other sources of compensation. It is a demand-led scheme which costs the Government over £200m each year and has historically been underfunded, with funding allocated at the beginning of the year needing to be topped up later in the year. At the end of 2010/11 the tariff scheme had an

estimated caseload valued at c.£260m,<sup>34</sup> more than the value of claims expected to come in every year, and more than the available annual budget for future years.

- 8) The review of the Scheme has taken place in a difficult financial climate. The Government believes that payments should be focussed on those victims who are most seriously affected by their injuries and where the impacts are long-term and life-changing. It also believes that it is more sensible and beneficial for victims with less serious injuries to receive immediate practical and emotional support, rather than financial compensation.
- 9) Services for victims are now far more readily available than in the mid 1990s when the statutory compensation scheme was established, and our reforms elsewhere in the consultation response aim to raise additional sums from offenders, to be spent on services for victims of crime, including violent crime, so that in the long run the annual amount spent on victims overall is not reduced.

### Rationale for Intervention

- 10) The economic rationale for government intervention may relate to securing macroeconomic objectives, especially in relation to fiscal policy, as well as to microeconomic considerations. On the macroeconomic side the reforms in this Impact Assessment (IA) will contribute to reducing the scale of government expenditure. In addition to the policy rationale for reforming the CICS, these policies will contribute to the Government's objective of reducing the fiscal deficit.
- 11) On the microeconomic side the conventional economic rationale for government intervention is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more needy groups in society).
- 12) Payments under the Criminal Injuries Compensation Scheme are transfer payments from Government to victims of violent crime that express social concern for the physical, psychological and sometimes financial, suffering experienced by victims. The reforms in this IA involve reducing the overall scale of these payments in pursuit of the macroeconomic objective set out above. However, they are also intended to distribute the remaining resources more fairly, by focusing resources more tightly on those with more serious injuries; recognising public concern for particularly vulnerable groups and for those who have been the victims of particularly distressing crimes even though the injury may not be evident, or the effects may be particularly difficult to quantify (for example sexual assaults and physical abuse of adults and children); and taking into account the availability of other services and resources (e.g. state benefits) a victim may be entitled to receive to meet the needs arising from the injury. In addition, they aim to make the scheme simpler and easier for victims to understand, improving efficiency.
- 13) This IA should be read in conjunction with the IA that considers parallel reforms to raise a similar additional amount from offenders to pay for new services for victims. This approach intends to ensure that in the long run there is no overall reduction in the annual budget for victims (of all types of crime) and that offenders play a greater role in funding victims services, reducing the burden on the state.

### Main Affected Groups

- Those who would be eligible for payments under the existing CICS

<sup>34</sup> In addition, CICA's accounts include a £128m estimated provision for cases that are assumed to have occurred but not yet been reported to CICA. Including unreported liabilities, the total tariff liability provision at the end of 2010/11 was £388m.

- Criminal Injuries Compensation Authority, Ministry of Justice and Scottish Government
- Her Majesty’s Courts and Tribunals Service
- UK Border Agency
- Other government departments and the NHS
- Those who assist or represent applicants, including personal injury lawyers and organisations that provide free advice

**Note on territorial application**

The Criminal Injuries Compensation Scheme, and therefore the reforms in this impact assessment, applies to victims of crime in England, Scotland and Wales.

**Cost and Benefits**

- 14) This Impact Assessment identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these reforms. The costs and benefits of each reform are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.
- 15) This Impact Assessment sets out our current estimates for the costs and benefits of the policy to the affected groups. These estimates are based on the evidence that is currently available, and are subject to change as the evidence base improves. As such, the estimates are represented as ranges based on the assumptions detailed in the discussion of costs and benefits below. Monetised costs and benefits are expressed in terms of annual managed expenditure (AME).

**Base Case / Option 0**

- 16) In the “do nothing” scenario, the CICA continues to accept applications for the CICS in its present form. We assume that future demand will remain at the current level in terms of both the number of applications (approximately 65,000 per year, of which roughly 60% are successful) and the distribution of applications across injury types. A range of factors (such as levels and patterns of crime and awareness of the scheme) could cause demand to rise or fall, but it is not possible to predict such changes.
- 17) Because the do-nothing option is compared against itself its costs and benefits are necessarily zero, as is its Net Present Value (NPV)<sup>35</sup>.

**Policy reform**

This involves reforms to many of the elements of the scheme. We have consulted on all changes except the underlying discount rate (reform n), which we are now reducing

<u>Relevant Current Scheme Provisions</u>	<u>Policy reform(s) to provision</u>
<u>Make payments under the Scheme to eligible victims of crimes of violence</u>	a) Do not make payments to the following categories of claimant: <ul style="list-style-type: none"> <li>i. railway employees who are mentally injured as a result of witnessing or being involved in the</li> </ul>

<sup>35</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

	<p>immediate aftermath of offences connected with trespass on the railway including suicide or attempted suicide;</p> <ul style="list-style-type: none"> <li>ii. where a person has been the victim of an animal attack, unless the animal itself was used deliberately to inflict injury on that person; and</li> <li>iii. third parties injured inadvertently by an act the sole purpose of which is suicide (this is a clarification of the current scheme).</li> <li>iv. as now, in the case of certain criminal offences, to which the claimant has consented in fact but is deemed not to have consented as a matter of criminal law (this is a clarification of the current scheme)..</li> </ul>
<p>Make payments to victims of violent crime injured in Great Britain (or on a British aircraft, ship etc)</p>	<ul style="list-style-type: none"> <li>b) Exclude those who cannot show they are ordinarily resident at the time of the incident in the United Kingdom with exceptions for: <ul style="list-style-type: none"> <li>i. British Citizens and accompanying close relatives</li> <li>ii. EU and EEA nationals and their accompanying family members;</li> <li>iii. a national of a state party to the European Convention on the Compensation of Victims of Violent Crime;</li> <li>iv. members of Her Majesty's United Kingdom Armed Forces and their accompanying close relatives;</li> <li>v. conclusively identified victims of trafficking and</li> <li>vi. a person who has been granted asylum, temporary or humanitarian protection.</li> </ul> </li> </ul>
<p>Reduce or withhold an award if the victim fails to report to the police or other body within a reasonable time, or fails to cooperate with a criminal investigation or with CICA</p>	<ul style="list-style-type: none"> <li>c) Require that an offence be reported to the police (rather than another body) as soon as reasonably practicable, and that the applicant cooperate so far as practicable in bringing the assailant(s) to justice;</li> </ul>
<p>Allow claims officers to withhold awards to under 18s if they consider it would be against the applicant's interests.</p>	<ul style="list-style-type: none"> <li>d) Remove this provision</li> </ul>
<p>Reduce awards (by up to 100%) on grounds of conduct or character, including evidence of previous criminal convictions. In fatal cases, take into account the conduct and character of both the claimant and the deceased.</p>	<ul style="list-style-type: none"> <li>e) Tighten rules in relation to previous convictions to exclude all of those with an unspent criminal conviction resulting in a custody or a community order (who are currently subject to reduced or withheld awards). In other cases an award will be reduced or withheld unless there are exceptional circumstances. Applicants with motoring offences for which the only penalty imposed was one or more of an endorsement, penalty points or a fine under</li> </ul>

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	<p>Schedule 2 to the Road Traffic Offenders Act 1988 will be exempt from this provision and will not generally have their awards reduced. In fatal cases take into account any convictions of the claimant but not those of the deceased, except in exceptional circumstances. Continue to take into account the conduct of the deceased. Clarify that payment should not be withheld or reduced solely because alcohol or drugs increased an applicant's vulnerability to attack</p>
<p>Make payment for pain and suffering according to a scale of 25 tariff bands (ranging from £1,000 for injuries such as fractured fingers and sprained ankles (tariff band 1) through to £250,000 for tetraplegia or severe brain damage (tariff band 25))</p>	<p>f) Remove eligibility for any award under the scheme for those with injuries in tariff bands 1 – 5 (less serious injuries), except those covered by reform (h)</p> <p>g) Reduce payments by £1500 in band 6 to £1000, by £1800 in band 7 to £1500 and by £2000 in bands 8 – 12, except those covered by reform (h).</p> <p>h) Retain fatal injury awards and tariff awards for sexual assault and for physical abuse (including those in bands 1 – 5) at their current values.</p> <p>i) Amend the tariff to better reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia injuries. Specifically:</p> <ul style="list-style-type: none"> <li>o Hemiplegia (currently band 21): mild, band 18 (£27,000); moderate, Band 21 (£55,000); severe, band 23 (£110,000)</li> <li>o Paraplegia (currently band 24): minimal, band 18 (£27,000); moderate but substantially incomplete, band 21 (£110,000); substantially complete, band 24 (£175,000).</li> <li>o Tetraplegia (currently band 25): substantially incomplete injury to both upper and lower limb levels, band 20 (£44,000); substantially incomplete to upper limb level but complete to lower limb level, band 24 (£175,000); substantially complete to both upper and lower limb levels, band 25 (£250,000).</li> </ul>
<p>Multiple injuries are compensated for using the following formula; the highest 'rated' injury is awarded in full, the second injury is awarded 30% of the tariff value and the third injury is awarded 15% of the tariff value. However, where a person suffers a physical and a mental injury and the amount for the physical injury is higher, there is no award for the mental injury.</p> <p>When a person is a victim of a sexual offence and also suffers a mental injury, the applicant will be entitled only to whichever is the higher of the two tariff amounts.</p>	<p>j) No longer distinguish between mental and physical injuries when calculating multiple injury awards. Maintain the current provision in relation to victims of sexual offences who also suffer mental injury.</p>



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<p>Compensate people who lose earning capacity (in full or in part) for more than 28 weeks for estimated actual loss (past and future). Cap actual loss at 1.5 times gross median full-time earnings. Deduct state benefits and payments from pension schemes where these were not funded solely by the applicant. Convert future loss into a lump sum payment using a table of multipliers.</p> <p>Where a victim of a fatal injury had financial dependents, pay on the same basis (up to the end of full time education for young dependants), but make deductions for the deceased's living expenses</p>	<p>k) Pay all applicants eligible for a loss of earnings award an annual flat rate payments equivalent to Statutory Sick Pay and no longer reduce awards to reflect an applicant's other sources of income. Loss of earnings will be paid only to those with no, or very limited, earning capacity. No longer pay for diminution of earnings. Make payments for dependency on the same basis as loss of earnings.</p>
<p>Where the death of the victim is eligible for an award, CICA pay funeral expenses to the estate. This is payable up to an amount considered reasonable by a claims officer,</p>	<p>l) CICS claims officers to pay £2,500 up front to the deceased's estate and where the applicant can demonstrate that total costs are reasonable, make further funeral payments up to a total maximum of £5,000.</p>
<p>Pay special expenses for:</p> <ul style="list-style-type: none"> <li>• loss or damage of physical aids;</li> <li>• costs associated with NHS treatment, private health treatment where the treatment and its cost are considered reasonable;</li> <li>• the reasonable cost (in so far as it falls to the applicant) of special equipment, home adaptations and care (including loss of earnings if care is provided by a relative or friend) where these are necessary as a result of the injury and not available free of charge from the NHS, local authorities or other agencies</li> <li>• fees payable to the Public Guardian or Court of protection and other reasonable costs associated with administration of the applicant's affairs due to lack of mental capacity, where these are incurred as a result of the injury</li> <li>• the reasonable cost of setting up and administering a trust where this is required by the CICA</li> </ul>	<p>m) No longer make payments for private medical care not available on the NHS.</p>
<p>Discount payments for future loss using tables based on an underlying discount rate of 4.5%</p>	<p>n) Introduce new discount tables for payments for future loss based on an underlying discount rate of 2.5%<sup>36</sup></p>
<p>Applications for compensation must be received by CICA within two years of the date of the incident. CICA has discretion to waive this limit where it is practicable for the application to be considered and the applicant could not reasonably have made an application within the two year period.</p>	<p>o)(i) Maintain the existing time limit for applications for compensation (of two years from the date of the incident) and introduce clearer rules on the time limits for applications from those who were children at the time of the incident</p>

<sup>36</sup> NB The consultation did not include a specific proposal on changing the discount tables.

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<p>It is for the applicant to make out their case, but CICA will meet reasonable ancillary costs and the cost of medical examinations, including related (e.g. travel) costs incurred by the applicant.</p>	<p>o)(ii) Maintain the onus on the applicant to make out their case, but clarify what evidence the applicant will be required to provide as a minimum, so far as it is practicable for the applicant to do so. This includes initial expert/medical evidence that an injury has been sustained.</p> <p>o)(iii) Require that the applicant must pay for initial medical evidence up to the value of £50, except where this is not affordable or practicable, when such costs will be deducted from the final award. Also deduct costs associated with medical expenses where an applicant misses appointments that CICA is paying for without reasonable excuse.</p>
<p>Claims officers can defer consideration of an application for various reasons, including awaiting the outcome of criminal proceedings or applications for alternative sources of compensation.</p>	<p>o)(iv) Additionally provide that a claims officer can defer a decision on an application where the applicant has been referred to a United Kingdom competent authority as a potential victim of trafficking in human beings or has made an application for asylum, until the outcome is known.</p>
<p>Applicants have 90 days from the date a decision is issued to accept it or request a review.</p>	<p>o)(v) Reduce the period for applicants to accept, or request a review of, their award from 90 to 56 days;</p>
<p>Repayment of all or part of an award can be sought where it is found that the applicant has received another payment in respect of the injury.</p>	<p>o)(vi) Extend the circumstances where repayment of all or part of the award may be requested to cover circumstances where it comes to light that the applicant had not cooperated in bringing their assailant to justice or the applicant deliberately misled the claims officer when making their application</p>
<p>If an applicant appeals against a review decision, even if it becomes clear before the appeal is heard that the claims officer's review decision was in error, CICA cannot withdraw the decision and issue a new one so the appeal must be heard</p>	<p>o)(vii) when it becomes apparent that a claims officer has made an error on review, allow CICA (with the agreement of the applicant) to withdraw the decision before the appeal is heard so that the appeal falls and a fresh decision can be issued</p>
<p>Unimplemented powers (in the Criminal Injuries Compensation Act 1995) exist to allow the Secretary of State for Justice or, in Scotland, Scottish Ministers, to make Regulations to provide for the recovery from offenders by the state of the criminal injuries compensation paid to their victims</p>	<p>o)(viii) Consider further how to implement provisions in the Criminal Injuries Compensation Act 1995 to allow CICS claims officers to issue a recovery notice to an offender for the compensation paid to their victim and, if the amount is not paid, to initiate debt recovery action through the civil courts.</p>

18) The impacts of several of our reforms overlap. For example, many of the applicants that would be excluded by the policy no longer to make payments to witnesses of offences connected with trespass on the railway would also be excluded by the proposal to remove tariff bands 1 – 5. In order to avoid double counting of impacts, we consider the impacts of the proposals in sequence. Specifically, we

**assume the changes to the tariff<sup>37</sup> have occurred when estimating the effects of other changes.**

- 19) Note that the Scheme is a transfer payment from government to victims of crime. As a result, the net impact of almost all the reforms is zero.
- 20) Where we are able to monetise the impacts of reforms we estimate a high and a low scenario. The low scenario corresponds to a smaller reduction in compensation paid than the high scenario.
- 21) A table showing the number of victims who received tariff, loss of earnings and special expenses awards in each tariff band (averaged across 2008/09 and 2009/10) is provided at annex 2.

## Costs of Policy Reform

### Transitional Costs

*Costs to eligible for the current CICS (principally victims and witnesses of violent crime and dependents of those fatally injured)*

- 22) The reformed scheme will be laid around the start of July 2012. All the impact assessments being published with the government response calculate costs and benefits from this date. There will be a delay between the reformed scheme being laid and its coming into force. We assume that this period is around three months. This means that the cost of the reforms to victims and witnesses of crime in the first year to two years will be lower than the long run average for two reasons. Firstly, the reformed scheme will only be in operation for the final three quarters of the first year.
- 23) Secondly, it is possible that during the three month between the scheme being laid and it coming into force some people will put in applications that they would otherwise have put in later. CICA estimate that under the current scheme at any one time there are around £85m of likely claims where the incident has occurred, and the applicant will claim within the two year limit.<sup>38</sup> If some or all of these applications are brought forward more compensation will be paid in this period. This will be partially offset by a reduced number of claims in the first and second years under the reformed scheme.
- 24) The costs to victims of crime, and the benefits to the Ministry of Justice/Scottish Government are higher the more victims put in applications under the reformed, less generous, scheme rather than the current scheme.
- 25) The high estimate of transitional costs and benefits (£100m over two years) therefore corresponds to an assumption that no claims are brought forward (so the maximum number of applicants is affected by the reductions in scheme payments).
- 26) The low estimate of transitional costs and benefits (£55m over two years) corresponds to an assumption that all £85m of potential claims are brought forward. Under this scenario, more applicants make claims under the current, more generous scheme, and fewer under the reformed scheme. As a result, the costs to victims (and the benefit to the MoJ) for the first two years following reform is lower. The estimate assumes that the potential claims are representative of all claims made under the current scheme.<sup>39</sup>

<sup>37</sup> removing tariff bands 1 – 5 and reducing tariff awards in bands 6 - 12, but protecting the value of tariff awards for fatal injuries, sexual assault and a pattern of physical abuse

<sup>38</sup> Except in exceptional circumstances, applications for compensation must be made within two years of the incident. CICA estimate that there are around a further £50m worth of claims more than two years old that will be placed, and be successful, in the future. However, given that these claims must by definition have exceptional reasons for delay, it is unlikely they will be brought forward in response to announced scheme changes.

<sup>39</sup>The current scheme costs around £210m per year – or £52.5m per quarter - and we assume that in the absence of reform this would continue

Under the high scenario there is no reduction in the first quarter, as the new scheme is not in force. The cost for the remainder of the first two years (seven quarters) depends on the amount by which the reformed scheme reduces compensation. For illustration, suppose this reduction is £50m per year.

In the high scenario, the new scheme would then reduce compensation paid by £12.5m per quarter for seven quarters i.e. £87.5m.

Under the low scenario, there is in fact an increase of £85m in compensation paid in the first quarter, because £85m of claims are brought forward.

Again suppose the reduction due to the reforms is £50m per year.

Under this scenario, £85m extra is paid in the first quarter. In subsequent quarters less is paid for two reasons. Fewer claims are submitted because some have been brought forward. Second, those claims are paid less due to the reforms. Specifically, we can assume that each claim is reduced to  $((210-50)/210)=76\%$  of its previous amount. Therefore the difference between the amount that would be paid per quarter in the

*Costs to CICA/MoJ and Scottish Government:*

27) There will be costs to CICA (which is wholly funded by the MoJ and Scottish Government) of training claims officers in the rules of the proposed new scheme.

*Costs to those who assist/represent applicants:*

28) Though applicants do not need legal representation to make a claim, a substantial proportion are represented (around 25% of applicants, and about 25% of award recipients, representing around 35% - 40% of awards by value). Others get free advice from organisations such as Victim Support. There may be costs associated with learning the new scheme for these groups, although since the scheme is being simplified, these are unlikely to be substantial.

### On-going costs

*Monetised costs to people eligible for the CICS (principally victims and witnesses of violent crime, and dependents of those fatally injured):*

All these costs are based on the assumption that in the absence of reform demand for the scheme would remain at its current level and that reductions in the value of payments do not reduce demand for them. They are listed in the order in which they are presented in the main consultation document. Where we are unable to monetise a particular proposal, we note it in this section and discuss further below.

### **Policy reform a(i): no longer pay awards to railway employees who are mentally injured as a result of witnessing or being involved in the immediate aftermath of offences connected with trespass on the railway including suicide or attempted suicide**

29) This proposal will affect railway workers who witness injuries directly resulting from trespass on the railway. **We do not expect this proposal to reduce the amount of compensation paid significantly.**

30) In 2008/09<sup>40</sup> around 170 railway employees received awards from CICS totalling about £650k for mental injury due to witnessing or being involved in the immediate aftermath of offences connected with trespass on the railway. Of this about £250k was for tariff payments. It is not possible to disaggregate this by tariff band but the average payment was around £1,500. Currently the payment for injuries in tariff bands 1 – 5 are between £1,000 and £2,000. We therefore assume that almost all the reductions in compensation that would be caused by this exclusion have already been counted as part of the removal of tariff bands 1 – 5. Therefore it is not expected there that will be a significant reduction in compensation resulting from this proposal.

*We are not able to monetise the impacts of policy reforms a(ii) – a(iv), b – d. A qualitative discussion of their likely impacts is provided in the next section.*

**Policy reform e: Exclude all of those with an unspent criminal conviction resulting in custody or a community order. In other cases an award will be reduced or withheld unless there are exceptional circumstances. Applicants with motoring offences for which the only penalty imposed was one or more of an endorsement, penalty points or a fine under Schedule 2 to the Road Traffic Offenders Act 1988 are exempt from this provision and will not generally have their awards reduced. In fatal cases take into account any convictions of the claimant but not those of the deceased, except in exceptional circumstances.**

31) This reform will affect victims of violent crime with unspent criminal convictions. We estimate that they will **reduce the amount of compensation paid by £0m - £2m**. We assume that, as in the past, tariff payments (which form the majority of these awards) will not be up-rated with inflation. Therefore the real monetised cost of these reforms will decline in real terms in the future.

32) It is already possible for awards to be reduced or withheld where the applicant has previous criminal convictions. In each of 2008/09 and 2009/10, around £5m - £10m was paid to people whose awards were reduced due to their having a criminal record.

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absence of the reforms and the amount that is paid under this scenario is:  $(£210m/4) - ((£210m/4) - (£85m/7)) * 0.76 = £22m$  savings each quarter will be

In total, then, under this scenario the reduction in compensation paid would be:

$-£85m + 7 * £22m = £67m$ .

<sup>40</sup> Data is not available for 2009/10.

- 33) Around £1m of this was for injuries in bands 1 – 5. This reduction in compensation is therefore counted as part of the tariff reductions. In addition, some of the remainder will be affected by the cuts to higher tariff bands (see proposal g). Taking the tariff changes into account, this proposal could affect up to around £7m of compensation.
- 34) The reform applies to individuals sentenced to custody or a community sentence. We do not have details of the sentences received by those who were given reduced awards. To reach an estimate, we assume they were representative of all offenders sentenced. Around 25% of all offenders sentenced in 2010 were sentenced to immediate custody, a suspended sentence or a community sentence. On this basis, we estimate this reform will reduce compensation paid by up to £2m.
- 35) The impact of this reform is likely to be affected by the reform of the Rehabilitation of Offenders Act (ROA) 1974 in England and Wales. The reforms to the ROA will change the rehabilitation periods for different sentences; most will become shorter, though convictions resulting in custodial sentences of more than 4 years will still never be spent.<sup>41</sup> In addition, the rehabilitation periods will commence when the sentence ends (including any period spent by the offender on license), rather than from the date that the offender is convicted. As most convictions will be spent more quickly, the reforms to the ROA are likely to reduce the impact of the reform. We do not have sufficiently detailed data on the sentences of applicants who currently have their awards reduced to estimate this effect.
- 36) There are a number of reasons why the reduction in compensation as a result of this reform might be less than £2m. In addition to the reforms to the ROA discussed above and general optimism bias and fluctuations in caseload, there are also risks in relation to the proportion of applicants with relevant unspent convictions and the number of fatal cases where at present the award is reduced due to criminal convictions of the deceased (rather than the claimant). We therefore estimate a reduction in compensation paid of £0m - £2m.

#### Policy reforms f - i: Changes to the tariff

37) There are three elements to this proposal:

- (reform (f)) remove bands 1 – 5 of the tariff
- (reform (g)) reduce payments by £1500 in band 6 to £1000, by £1800 in band 7 to £1500 and by £2000 in bands 8 – 12 (no change to bands 13 – 25);
- (reform (h)) retain fatal injury awards and tariff awards for sexual assault and for physical abuse (including those in bands 1 – 5) at their current values.
- (reform (i)) amend the tariff to better reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia injuries.<sup>42</sup>

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<sup>41</sup> The necessary changes to systems and processes to deliver the reforms to the ROA are expected to be in place by Spring 2013, at which point the changes to the (ROA) scheme can be commenced. In the meantime, the current law in relation to rehabilitation periods will remain in force. . Once implemented, the relevant rehabilitation periods will be as follows:

Custodial sentences over 0 months and up to and including 6 months, the conviction would not become spent until 2 years after the end of the sentence;

Custodial sentences of over 6 months and up to and including 30 months, the conviction would not become spent until 4 years after the end of the sentence;

Custodial sentences of over 30 months and up to and including 4 years, the conviction would not become spent until 7 years after the end of the sentence;

Custodial sentence of over 4 years can never be spent;

Community order, the conviction would not become spent until 1 year after the end of the order;

These rehabilitation periods will be halved for offenders who are under the age of 18 at the point of conviction with one exception (to ensure that the total rehabilitation period for short custodial sentences is appropriate and proportionate when compared to youth rehabilitation orders), that custodial sentences over 0 months and up to and including 6 months in custody would not become spent until 18 months after the end of the sentence for offenders who are under 18 at the point of conviction.

<sup>42</sup> Hemiplegia (currently band 21): mild, band 18 (£27,000); moderate, Band 21 (£55,000); severe, band 23 (£110,000). Paraplegia (currently band 24): minimal, band 18 (£27,000); moderate but substantially incomplete, band 21 (£110,000); substantially complete, band 24 (£175,000). Tetraplegia (currently band 25): substantially incomplete injury to both upper and lower limb levels, band 20 (£44,000); substantially incomplete to upper limb level but complete to lower limb level, band 24 (£175,000); substantially complete to both upper and lower limb levels, band 25 (£250,000).

- 38) Reform (f) with reform (h) will affect those with minor physical injuries and mental injuries classified as “temporary mental anxiety” except victims of sexual and physical abuse. Reform (g) with reform (h) will affect victims with injuries in bands 6 – 12, except victims of sexual assault or a pattern of physical abuse. Those bereaved by violent crime will also not be affected.
- 39) We estimate that together these reforms will **reduce the amount of compensation paid by about £40m - £45m** (to the nearest £5m, in nominal terms). This is made up of a reduction of £20m due to removing bands 1 – 5 (while protecting awards for victims of physical and sexual abuse) (reforms f and h) and a further £20m - £25m from reducing the amounts paid in bands 6 – 12 (again, while protecting awards for the bereaved and victims of physical and sexual abuse) (reforms g and h). Reform (i) affects only a small number of claimants, so its impact is highly uncertain, but we estimate it might reduce the overall amount of compensation paid by £0m - £1m.
- 40) We assume that, as in the past, tariff payments will stay fixed in nominal terms (either under this reform or under the base case). Therefore the real cost of these reforms (the real value of the difference between the amount of compensation paid under this reform and under the base case) will decline in the future.
- 41) Before any deductions were made for the conduct and character of the applicant, compensation in bands 1 – 5, totalled around £26m in 2008/09 and £27m in 2009/10. Of this about £1.5 - £2m was for sexual assault and a pattern of physical abuse. A further £3m was for loss of parental services awards. Deductions (for conduct, character) were around 4% on average across tariff payments as a whole. Assuming that deductions were evenly distributed across tariff bands, actual compensation paid for victims of offences other than sexual assault or a pattern of physical abuse in these bands was around £20m.
- 42) Our estimate (rounded to the nearest £5m) of the savings from removing bands 1 - 5 (reforms (f) and (h)) is therefore £20m. Deducting 10% for optimism bias including for the risk that fluctuations in demand might limit the cost of this proposal to victims compared to the baseline does not affect the estimate, to the nearest £5m.
- 43) To estimate the impact of reforms (g) and (h), before deductions, compensation in bands 6 – 12, cost £62m in 2008/09 and £67m in 2009/10. Bereavement awards made up £6m of this total in 2008/09 and £4m in 2009/10. Awards for sexual assault and a pattern of physical abuse made up a further £8m in 2008/09 and £6m in 2009/10. Deducting this, and a further 4% for conduct and character (see above) leaves average total affected compensation at approximately £55m.
- 44) Making the planned reductions (of £1500 in band 6, £1800 in band 7 and £2000 in the remaining bands 8 – 12) would reduce this amount by around £25m. To reach a lower end estimate of the reduction in compensation, we deduct 10% for optimism bias, including for the risk that fluctuations in demand might limit the cost of this proposal to victims compared to the baseline. We therefore estimate a reduction in compensation paid due to reform (g) in the range £20m - £25m.
- 45) Reform (i) will affect some victims with hemiplegia, paraplegia and tetraplegia injuries. Those with moderate hemiplegia or substantially complete paraplegia or tetraplegia will not be affected. Those with severe hemiplegia will receive higher awards, those with mild hemiplegia, minimal or moderate paraplegia or substantially incomplete tetraplegia will receive lower awards.
- 46) In 2008/09 about 30 claimants received awards for these injuries in total, and in 2009/10 about 20 claimants received awards. An initial assessment of historical claims indicates that the reforms might reduce the amount paid to these claimants by up to around £1m per year. However, as this is only an initial assessment, and the total number of affected claimants is very small, the proportion of future claimants with these injuries who are likely to be affected by the reforms is uncertain. Subject to these uncertainties, we estimate that the reform might reduce total compensation paid by approximately £0m - £1m.
- 47) We therefore estimate that together the tariff reforms will reduce the amount of compensation paid by somewhere in the range £40m - £45m (to the nearest £5m).

*We are not able to monetise the impact of reform (j). A qualitative discussion of its likely impact is provided in the next section.*

**Reform k - Pay loss of earnings at a flat rate equivalent of Statutory Sick Pay (around £4500 per annum) and not reduce payments to reflect an applicant’s other sources of income. Pay for**

**dependency at the same rate as loss of earnings. Loss of earnings to be paid to those with no, or very limited, earning capacity. No longer pay for diminution of earnings.'**

**WITH reform (n): introduce new discount tables for payments for future loss based on an underlying discount rate of 2.5% (the current rate is 4.5%)**

- 48) These reforms will impact on victims of violent crime who are injured severely enough to be out of work (or have limited earnings capacity) for more than 28 weeks, and would have been in work for some or all of this time. It will also impact on dependents of fatally injured victims of crime. We estimate that **reform (k) in conjunction with reform (n) will reduce compensation paid by £0m - £10m.** (We assume that loss of earnings payments would increase in line with inflation. Therefore this estimate represents the real value of this cost.)
- 49) Total expenditure on loss of earnings including dependency in 2009/10 was around £45m across around 1,100 applicants. The average for 2007/08 – 2009/10 was also around £45m, across 1,000 applicants. Approximately £4m, or 10%, of LoE spending in 2009/10 was on dependency. In the absence of more detailed information, we will assume 10% of any reduction in compensation will come from dependency too.
- 50) The amount an individual receives for loss of earnings depends on three factors: the amount they are to be paid per year of loss; the number of years of earnings they have lost (past and future); and the discount rate used to convert payments for future loss into a lump sum. Reform (k) affects the first of these. Reform (n) affects the third. We therefore estimate the impact of these reforms together.<sup>43</sup>
- 51) Reform (k) is expected to reduce the average amount paid for loss of earnings. This will be partly offset by reform (n); reducing the discount rate increases the size of the lump sum payment an individual receives for their future loss (for a given annual loss of earnings rate).
- 52) The current rules for calculating loss of earnings awards are complex and there is high variation in income and years of loss between applicants. Also, due to administrative constraints (and unlike for the other reforms) we only have detailed information on a small sample of claims from 2009/10. We have estimated the impacts of the reform on the basis of this sample, but the estimates are inevitably uncertain.
- 53) Assuming that the distribution of years of loss in the sample of claimants is the same as in the population, we estimate that together these reforms would result in the average total payment for loss of earnings falling from about £40,000 to about £33,000. This corresponds to a fall in the total amount paid in loss of earnings of about £10m.
- 54) There is considerable uncertainty surrounding our loss of earnings estimates. Allowing for optimism bias and the risk of future changes in demand, we estimate that as a result of reform (k) in conjunction with reform (n) there would be a **reduction in compensation of £0m - £10m.** (We assume that loss of earnings payments would increase in line with inflation. Therefore this estimate represents the real value of this cost.)

*We are not able to monetise the impact of proposal (l). A qualitative discussion of its likely impact is provided in the next section.*

### **Reform m - remove special expenses for reasonable private health care not available on the NHS**

- 55) This reform will affect victims of violent crime who want to purchase additional care beyond that which the NHS provides. **We do not expect this reform to have a significant impact on the amount of compensation paid.**
- 56) In each of 2008/09 and 2009/10 CICA paid out approximately £0.2m for private health care. We therefore estimate a reduction in compensation paid as a result of this proposal of £0m (to the nearest £1m).

*The impact of reform (n) on loss of earnings payments is monetised above. However, it will also affect payments for future special expenses and loss of parental services. We are not able to monetise these*

<sup>43</sup> Note that changes to the discount rate (reform (m)) will also affect the amount paid for future special expenses costs and for loss of parental services. We do not have sufficient data to quantify these impacts. They are discussed in the sections on non-monetised costs and benefits below.

RESTRICTED

*impacts. We are also not able to monetise the impact of reforms o(i)-(viii). A qualitative discussion of the likely impacts of these reforms is provided in the next section*



SUMMARY OF MONETISED COSTS:

<u>Policy Change</u>	<u>Groups impacted</u>	<u>Estimated reduction in compensation payments (figures above £10m rounded to nearest £5m, upper value is estimate, lower value is adjusted for potential demand changes and optimism bias in predicting cost savings, then rounded)</u>
<b>(a)(i)</b> Exclude railway employees who are mentally injured as a result of witnessing or being involved in the immediate aftermath of offences connected with trespass on the railway including suicide or attempted suicide	Railway employees	£0m
<b>(e)</b> Exclude all of those with unspent criminal conviction resulting in custody or a community order, with no discretion, and retain discretion to reduce awards in all other case. Applicants with motoring offences for which the only penalty imposed was one or more of an endorsement, penalty points or a fine under Schedule 2 to the Road Traffic Offenders Act 1988 are exempt from this provision and will not generally have their awards reduced.	Victims of violent crime with unspent criminal convictions	£0m - £2m
<b>(f)</b> Eliminate tariff bands 1 – 5 (less serious injuries). <b>(g)</b> Reduce payment in bands 6 – 12 by £1500 in band 6 to £1000, by £1800 in band 7 to £1500 and by £2000 in the remaining bands 8 – 12 <b>(h)</b> Retain fatal injury awards and tariff awards for sexual assault and for physical abuse (including those in bands 1 – 5) at their current values. <b>(i)</b> amending the tariff to better reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia injuries.	Victims of violent crime (except sexual assault and physical abuse)	£40m - £45m (of which approx £20m from the removal of bands 1 – 5, £20m - £25m from the reductions to bands 6 – 12, and £0m - £1m from amendments to tariff for hemiplegia, paraplegia and tetraplegia)
<b>(k) with (n)</b> Pay loss of earnings at a flat rate equivalent of Statutory Sick Pay (around £4500 per annum) and not reduce payments to reflect an applicant's other sources of income. Pay for dependency at the same rate as loss of earnings. Loss of earnings to be paid to those with no, or very limited, earning capacity. No longer pay for diminution of earnings.  And (reform <b>(n)</b> ) introduce new discount tables for payments for future loss based on an underlying discount rate of 2.5% (the current rate is 4.5%)	Victims of violent crime  Dependents of fatally injured victims of violent crime	£0m - £10m (of which c. 10% is reductions in dependency payments)
<b>(m)</b> Remove the special expenses payments for private medical care not available on the NHS.	Victims of violent crime who want treatment beyond what is available on the NHS or from social services.	£0m

TOTAL (to nrst £5m, totals may not sum due to rounding of impacts of individual reforms)		£40m - £60m*
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\* **NB** This total in 2011/12 nominal terms. £40m - £50m of this relates to tariff payments which are assumed not to increase with inflation. The remaining £0m - £10m relates to loss of earnings payments which are assumed to increase with inflation. Assuming 2% annual inflation, the real terms average annual cost of the reforms after the two year transition period is £35m - £55m – as stated in the summary sheet.

*Non-monetised costs:*

There are several policy reforms where we do not have data to enable us to monetise the impact on victims. In addition, we have identified that some of our reforms may also have costs for other organisations, though we have not been able to monetise these.

- 57) *Costs to victims of animal attacks (except where the animal itself was used deliberately to inflict injury on that person) (reform a(ii))*; These individuals will not be eligible for payment in future. Data is not available on the number of such cases where compensation has been paid in the past. However, we do not expect this reform to have a significant impact.
- 58) *Possible costs to individuals injured inadvertently by an act the sole purpose of which is suicide (reform a(iiii))*; possible costs to claimants injured as a result of certain criminal offences, to which the claimant has consented in fact but is deemed not to have consented as a matter of criminal law (reform a(iv)). These individuals will not be eligible for payment in future. However, these proposals are all clarification of the current rules - these individuals are not eligible under the current scheme. We therefore do not expect these reforms to have a significant impact.
- 59) *Costs to victims who do not satisfy the requirement of ordinary residence or are exempt from it (reform b)*: these individuals will lose entitlement to compensation for crimes of violence committed in Great Britain. As there are currently no requirements relating to residence in the scheme, no information is held that could be used for an estimate, so we are not able to quantify the impact of this reform.<sup>44</sup>
- 60) *Costs to victims who report the offence to a body other than the police or do not cooperate with bringing their assailants to justice (reform c)*: a substantial number of claims are refused each year on the grounds that the applicant failed to report the offence as soon as possible to the police or another body and/or cooperate with any investigation. In addition, over the three years 2007-2009, on average 185 people received a reduced award because they had failed to report, and 180 because they failed to cooperate (there may be overlap between these groups). However, no data is held on the number of applicants who currently report to a body other than the police, and who therefore would be affected by this proposal so we are unable to provide a monetised estimate of the impact.
- 61) *Costs to those who pay for funerals/beneficiaries of the deceased's estate in fatal cases (reform I)*: reimbursement for funeral costs will be capped at £5,000, whereas currently expenses considered reasonable by the claims officer are paid. We do not expect this to have an impact in a significant number of cases.
- 62) *Costs to applicants for whom CICA currently pays for initial medical evidence (reform o(iii))*: applicants will have to pay for initial medical evidence up to the value of £50, except where this is not affordable or practicable, when such costs will be deducted from the final award.
- 63) *Cost to applicants who miss medical appointments paid for by CICA (reform o(iii))*: applicants will have to pay these costs .
- 64) *Cost to applicants who do respond to their award offer (to accept or request a review) within 90 days but not within 56 days (reform o(v))*: these applicants will have to respond more quickly in order to receive their award.

<sup>44</sup> In 2009/10 CICA received 254 claims from individuals with addresses outside Great Britain, of whom 160 received compensation (totalling £908K). However, these figures could include British and EU/EEA citizens living abroad (including armed forces personnel), and they exclude individuals with UK addresses who may nevertheless not be ordinarily resident here. It is therefore not a useful guide to the impact of a restriction based on residency.

- 65) *Cost to applicants who, after receiving their award do not cooperate in bringing their assailant to justice, or are found to have deliberately misled a claims officer (reform o(vi))*: these applicants may have to repay some or all of their award.
- 66) *Costs to other government departments and the NHS (reforms b, k and m)*: enforcing the requirement for applicants to be either EU citizens, nationals of states party to the European Convention on the Compensation of Victims of Violent Crime, or ordinarily resident in the UK at the time of the incident may involve administrative costs to government. The scheme is supposed to be one of last resort, and in particular only to pay special expenses and loss of earnings as supplements to, rather than substitutes for, state provision. Nevertheless, it may be the case that the reductions to loss of earnings and withdrawal of special expenses for private health care will result in increased demand for public services and benefits, affecting DWP and the NHS. It is not possible to quantify this impact, but since special expenses for private health care are only paid in a small number of cases (fewer than 50 in each year 2007/08 – 2009/10), and loss of earnings in around 1,000 cases it can be expected to be quite small.
- 67) *Costs to Personal Injury lawyers (general)*: Removal of tariff bands 1 – 5 and other eligibility changes may reduce demand for assistance from personal injury lawyers for applying to CICS.<sup>45</sup> The longer term impact this may have will be dependent on the ability of lawyers to valuably use their resources in other areas. However, the overall impact will depend on wider demand for legal services.
- 68) *Costs to HMCTS (general)*: the proposed reductions in payments and eligibility may result in more appeals against individual decisions, but we are not able to quantify the likely size of this impact. In principle there might also be an increase in damages claims in the civil courts, though as the scheme is already intended as one of last resort so there should not be many additional such cases.
- 69) *Costs to CICA/MoJ/Scottish Government*
- a) Removing the provision that allows claims officers to withhold awards to under 18s where they feel it would be against the applicant's interests (**reform d**) may increase the amount of compensation awarded. We do not have detailed data on the number of cases affected, but expect the impact to be small.
  - b) Amending the scheme so that mental injuries are treated in the same way as physical injuries when calculating multiple injury awards (but maintaining the current provision in relation to victims of sexual offences who also suffer mental injury) may increase the amount of compensation paid (**reform j**). We do not have data on the number of claims likely to be affected, so are not able to quantify the impact.
  - c) Reducing the discount rate to 2.5% (**reform n**) will increase the amount of compensation paid in special expenses payments (where these relate to future costs e.g. for care) and loss of parental services payments. We do not have data on the number of years of future loss claimed for these types of payments, so are not able to quantify the impact.
  - d) Introducing new clearer rules on the time limits for applications from those who were children at the time of the incident (**reform o(i)**) may increase the number of successful applications and therefore the amount of compensation awarded. This would occur if some potentially eligible applicants do not apply at the moment because they do not think they are eligible.
  - e) *Assuming reform (b) is implemented*, introducing a new provision enabling a claims officer to defer a decision on an application where the applicant has been referred to a United Kingdom competent authority as a potential victim of trafficking in human beings or has made an application for asylum (**reform o(iv)**) may increase the amount of compensation paid.<sup>46</sup> If a decision on their status is not reached before the deadline for applications to the CICS (2 years after the incident), these applicants will still be eligible to receive compensation if they are subsequently granted asylum or conclusively identified as a victim of trafficking.
  - f) Implementing provisions to allow CICS claims officers to issue recovery notices to offenders to recover compensation paid to their victims and, if the amount is not paid, to initiate debt recovery action through the civil courts (**reform o(viii)**) may result in administrative costs for CICA. Note

<sup>45</sup> approximately 25% of applicants have legal representation, and these claims receive 35% - 40% of awards by value

<sup>46</sup> Note that under the current scheme these individuals are able to claim in any case. However, if reform (b) (ordinary residency) is implemented, they would no longer be eligible.

that the decision to implement the provision would depend on an assessment of its likely cost effectiveness i.e. whether it was expected to result in enough money being recovered to justify any administrative cost.

- g) (*general*): if the new scheme resulted in more individuals seeking review and appeal of their award decision, this would impose costs on CICA, and therefore on MoJ

## Benefits of Policy Reform

### On-going Benefits

Monetised:

#### 70) MoJ and Scottish Government:

- a) the MoJ and Scottish Government will benefit from savings equal to the reductions in compensation payments to victims of crime set out above i.e. £40m - £60m
- b) there will also be a reduction in administration costs in the medium term, largely due to the removal of payments in tariff bands 1 – 5 and simplified loss of earnings provisions. These are estimated at approximately £1m - £1.5m in total.

Non-monetised:

#### 71) MoJ/Scottish Government:

- a) The amount of compensation paid will be reduced by restricting eligibility by no longer making payments:
  - o where a person has been the victim of an animal attack, unless the animal itself was used deliberately to inflict injury on that person (**reform a(ii)**)
  - o to third parties injured inadvertently by an act the sole purpose of which is suicide (**reform a(iii)** – clarification of the current scheme)
  - o to claimants injured as a result of certain criminal offences, to which the claimant has consented in fact but is deemed not to have consented as a matter of criminal law (**reform a(iv)** – clarification of the current scheme).
  - o the applicant is not ordinarily resident in the UK (and is not a British Citizen or accompanying family member, national of an EU or EEA member state or accompanying family member or of a state to the European Convention on the Compensation of Victims of Violent Crime, a victim of trafficking or someone granting asylum, a member of Her Majesty's United Kingdom Armed Forces or close accompanying family member (**reform b**))
  - o the applicant failed to report to the police as soon as practical, or to cooperate as far as practicable with any criminal investigation (**reform c**)
  - o and also by extending the circumstances where repayment can be sought to cases where the applicant failed to cooperate in bringing their assailant to justice or deliberately misled a claims officer (**reform o(vi)**) (though this may be partially offset by any associated administrative costs)

We do not have detailed data on the number of claims likely to be affected, so are not able to quantify the impact.

- b) Introducing a cap on the reimbursement for funeral costs at £5,000 may reduce the amount paid for funeral expenses (**reform l**). Currently expenses considered reasonable by the claims officer are paid. We do not expect this to have an impact in a significant number of cases as this is consistent with current internal policy in relation to maximum awards for funeral expenses.
- c) Changes to the application process may reduce administration costs and possibly also reduce the amount paid to victims who in fact have other sources of compensation. The relevant reforms are:
  - o introducing clearer rules on the time limits for applications from those who were children at the time of the incident (**reform o(i)**) may reduce the number of ineligible applications that have to be processed.

## RESTRICTED

- Clarifying the evidence the applicant will be expected to provide and restricting the circumstances under which CICA will pay for expert evidence (**reforms o(ii) and o(iii)**). CICA currently spends around £3.5million per year on medical reports. The proposal is likely to reduce this somewhat, but we are not able to quantify the likely impact.
  - Reducing the period for applicants to accept their award or request a review to 56 days (**reform o(v)**). This could help to streamline administration.
  - Allowing CICA to withdraw a decision and issue a new one, rather than allow a case to go to appeal (**reform o(vii)**). This will save the cost of preparing for and attending some appeal hearings.
- d) Implementing provisions to allow CICS claims officers to issue recovery notices to offenders to recover compensation paid to their victims and, if the amount is not paid, to initiate debt recovery action through the civil courts (**reform o(viii)**) may reduce the net amount spent by the Government on compensation, because some of the cost will be met by offenders. . Note that the decision to implement the provision will depend on an assessment of its likely cost effectiveness i.e. whether it is expected to result in enough money being recovered to justify any administrative cost.

### 72) *Victims of violent crime:*

- a) Removing the provision allowing claims officers to withhold awards from under 18s may benefit these victims (**reform d**)
- b) Amending the scheme so that mental injuries are treated in the same way as physical injuries when calculating multiple injury awards (but maintaining the current provision in relation to victims of sexual offences who also suffer mental injury) will benefit any victims who currently do not receive any compensation for a mental injury because they have a physical injury in a higher tariff band (**reform j**). We do not have data on the number of claims likely to be affected, so are not able to quantify the impact.
- c) Making up front payments of £2,500 for funeral expenses (**reform l**) may benefit those who pay for the cost of the funeral in fatal cases.
- d) Reducing the discount rate to 2.5% (**reform n**) will increase the amount of compensation paid in special expenses payments (where these relate to future costs e.g. for care) and loss of parental services payments. We do not have data on the number of years of future loss claimed for these types of payments, so are not able to quantify the impact.
- e) Introducing clearer rules on the time limits for applications from those who were children at the time of the incident (**reform o(i)**) may benefit victims in two ways. Any victims who currently make unsuccessful applications after the deadline, but no longer do so because it is clear that they will be refused, would save the costs associated with preparing an application. Any victims who would be eligible to apply after the time limit but do not apply because it is not clear that they are eligible could receive compensation.
- f) Clarifying the evidence required for their application may make the process simpler for victims (**reform o(ii)**)
- g) Assuming reform (b) is implemented, introducing a new provision enabling a claims officer to defer a decision on an application where the applicant has been referred to a United Kingdom competent authority as a potential victim of trafficking in human beings or has made an application for asylum (**reform o(iv)**) will benefit these applicants. If a decision on their status is not reached before the deadline for applications to the CICS (2 years after the incident), they will still be able to receive compensation if they are subsequently granted asylum or conclusively identified as a victim of trafficking.
- h) Allowing CICA to withdraw a decision and issue a new one, rather than allow a case to go to appeal (**reform o(vii)**). This will save the cost of preparing for and attending some appeal hearings, and may also reduce the overall length of the process.

73) *Wider economic benefits:* a reduction in payments under the CICS will contribute to achieving the Government's macroeconomic objective of reducing national debt

### Net Impact of Policy Reform

- 74) Payments under the CICS are transfer payments from government to applicants. The net monetised impact of the reforms in this impact assessment is therefore a small benefit, accruing to the MoJ and Scottish Government, from reduced administration costs of £1 - £1.5m per year.
- 75) Some of the monetised reduction in administration costs may be offset by increased costs to Government of assessing eligibility on residence grounds and to CICA from a possible increase in review and appeal. It has not been possible to quantify these.
- 76) The reduction in compensation payments also has a wider, non-monetised, benefit because it contributes to the government's macroeconomic objective of reducing government spending and hence the national debt. On the other hand it may – but it is not possible to be sure – have an additional cost in terms of its distributional impact (see below).
- 77) There is no evidence available on the marginal (social) value of giving money to victims of violent crime. We are therefore not in a position to assess whether the marginal social benefit of reducing the national debt is larger or smaller than the marginal social cost of reducing the amount of money transferred to those victims of violent crime who successfully apply to the CICS.
- 78) Note that this impact assessment should be read in conjunction with those relating to reforms to increase government spending on services for victims of crime, including violent crime (the proposal to increase and extend the Victim Surcharge; and the proposal to use revenue raised from an increase in Fixed Penalty Notices to fund services for victims) as well as to reform the framework within which these services are delivered..

### **Key Risks, Assumptions and Sensitivities**

- 79) Two key assumptions have been made in the analysis. The first relates to the level of future demand for the scheme and its profile (in terms of the distribution of cases across tariff bands and the proportion of cases claiming loss of earnings and special expenses). Our high scenario corresponds to demand remaining flat at the current level, and no claims being brought forward to qualify for the current scheme rather than the reformed scheme. Our low scenario allows for the possibility that the reduction in payments and the elimination of bands 1 - 5 could result in “up-tariffing” – individuals putting in successful claims for higher tariff bands than they would under the current scheme. It also allows for the possibility that some victims who would have delayed making their claim might bring their application forward to benefit from the current, more generous scheme.
- 80) However, demand has fluctuated in the past. We therefore cannot be sure either that demand won't rise (or fall) overall resulting in a larger (or smaller) impact of the reforms compared to option 0. It is also possible that there might be a larger shift in the profile of claims than that assumed for the low scenario (resulting in a smaller impact of the reforms). It is therefore unlikely, but possible, that the impact of the reforms could therefore lie outside the ranges estimated.
- 81) The second assumption relates to the estimated impact of the loss of earnings reforms. Under the current scheme, the procedure for calculating loss of earnings is complex – an individual's payment depends on the number of years of earnings they lose, their pre-injury post-tax earnings and their post-injury entitlements to state benefits and work-based pension schemes. The impact of the proposed alternatives compared to the baseline therefore depends on the joint distribution of these three variables in the future (as well as the number of loss of earnings applicants). We only have quite limited data on past claims for loss of earnings. In addition, especially given the relatively small number of loss of earnings applicants each year, we cannot be sure how similar the profile of future applicants will be similar to that of past applicants. The impact of the reforms may therefore lie outside the range estimated.
- 82) There is a risk that taking action to recover money from offenders to cover the cost of compensation paid to their victims might result in administrative cost without raising sufficient revenue to justify this. However, the powers will not be implemented unless the process designed is expected to be cost effective, and its performance will be kept under review.
- 83) There is a risk that the reforms might have a distributional impact, but we cannot be sure. The reforms have been designed to try to target resources at victims considered to be the most seriously affected by their injuries. They will reduce the amount of money received by victims of crime. Depending on the profile of the victims affected relative to the general population, this could have an impact on economic (in)equality. However, we do not have sufficient information to predict the

direction or scale of any impact.<sup>47</sup> The potential impacts of the reforms on people with protected characteristics are considered in a separate Equality Impact Assessment. Note that reforms elsewhere in this consultation will increase funding for services for victims of crime, including violent crime, which will impact positively on the welfare of victims. The overall impact on victims is considered in the Victims and Witnesses Consultation summary Impact Assessment.

## Specific Impact Tests

### Statutory equality duties

An Equality Impact Assessment is included as a separate document in this consultation.

### Competition Assessment

These reforms are not expected to affect suppliers' ability or incentives to compete. They are likely to reduce demand for personal injury lawyers to assist with applications for compensation, as individuals with minor injuries will no longer be eligible, and payments to those still eligible will typically be lower. However, we do not expect this reduction in demand to have differential effects across different groups of (existing or potential) suppliers.

### Small Firms Impact Test

Changes in the scheme rules and reduction in the number and potential value of applications for compensation will affect personal injury lawyers, including those in small firms, in two ways. There may be a reduction in demand for assistance with claims due to changes to eligibility criteria and reduction in the size of payments to those still eligible. Compared to the market in personal injury claims as whole, this impact is unlikely to be significant.<sup>48</sup> There may also be a transitional impact because lawyers will need to familiarise themselves with the new scheme. However, this impact should be limited by the fact that the new scheme will be simpler than the current one.

Since the scheme revisions will apply equally to all victims of violent crime, it would not be possible to make exemptions, or provide a different approach, for small firms. We do not currently have data on the proportion of firms which offer support with CICA applications that are small. However, many providers of legal services are small, so it is possible that most of the relevant providers may also be small. In this sense (i.e. compared to the private sector as a whole) the impact might fall more heavily on small firms. However, amongst firms that provide assistance with CICA applications, we do not expect there to be a disproportionate impact on small firms.

### Carbon Assessment

We do not expect these reforms to have an impact on the emission of greenhouse gases.

### Other Environment

We do not expect these reforms to have any other environmental impacts.

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<sup>47</sup> Evidence on victims of violent crime in general indicates they are not evenly distributed across the population – but rather are concentrated amongst students and the unemployed (Crime in England and Wales 2009/10, Home Office). However, it is not possible to draw direct comparisons between CICS claimants and victims of violent crime in general.

<sup>48</sup> Around 25% of successful claims, or 10,000 claims per year, have legal representation. Our reforms might reduce this by a third to a half (3,000 – 5,000). Data is not available to allow us to compare this to the total number of claims for compensation a year that involving personal injury lawyers.

However, the Compensation Recovery Unit keeps statistics on the number of cases registered with them. The Compensation Recovery Unit works with insurance companies, solicitors and DWP customers, to recover: amounts of social security benefits paid as a result of an accident, injury or disease, where a compensation payment has been made, and costs incurred by NHS hospitals and Ambulance Trusts for treatment from injuries from road traffic accidents and personal injury claims.

In 2009/10, 861,325 cases were registered to the CRU. Some of these cases may have involved only insurance companies, and no lawyers. However, if lawyers were only involved in 50% of these cases, CICA cases with legal representation would still correspond to less than 1% of this other work.

## Health Impact Assessment

- Will your policy have a significant impact on human health by virtue of its effects on the following wider determinants of health? : Income; crime; environment; transport; housing; education; employment; agriculture; social cohesion.

There may be an impact on the health of victims of violent crime as a result of them receiving smaller payments.

- Will there be a significant impact on any of the following lifestyle related variables? : Physical activity; diet; smoking, drugs or alcohol use; sexual behaviour; accidents and stress at home or work.

We do not anticipate a significant impact on these variables.

- Is there likely to be a significant demand on any of the following health and social care services? : Primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services; health protection and preparedness response.

There may be an impact on the health service if special expenses are removed for private health care that is not available on the NHS. However, the small number of people involved (less than 50 per year), and the fact that the scheme is already designed as one of last resort mean that this impact is not expected to be significant.

## Human Rights

We believe the reforms are compliant with the Human Rights Act.

## Justice Impact Test

Impacts on the justice system are covered in the main body of this Impact Assessment.

## Rural proofing

We do not expect the impacts of these reforms to differ between rural and urban areas.

## Sustainable Development

These reforms are consistent with the principles of sustainable development, in particular those of a sustainable economy and of a just society. By contributing to the government's objective of debt reduction they help to achieve a sustainable economy. At the same time, they are designed to target payments in a just way – to those considered the most needy, blameless victims of violent crime.

## Privacy Impact Test (an MoJ Specific Impact Test)

Not relevant.



## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

### **Basis of the review:**

It is intended to review each policy between three and five years after the implementation date. The review will form part of wider monitoring of policies introduced to meet the government's debt-reduction objective.

### **Review objective:**

To ascertain whether the policy reforms achieve their objectives in reducing the cost of the scheme and simplifying the application process while not having adverse equality impacts on groups with protected characteristics.

### **Review approach and rationale:**

Review of the policy will take the form of a monitoring framework to assess whether key aims of the policy are being achieved. Data will be collected on:

- the number of applications and the amount of compensation awarded;
- the time taken to process applications;
- the proportion of claims that request reviews and subsequently appeals
- the administration costs of the CICA; and
- the 'equalities' characteristics of applicants (such as race, gender and disability)

### **Baseline:**

The current baselines are:

- the number of applications and the amount of compensation awarded: c. 65,000 per year, of which 60% receive an award of some kind;
- the time taken to process applications: c. 7.5 months to first decision;
- the proportion of claims that request reviews and subsequently appeals: c. 20% reviews, of which 20% then go to appeal (4.6% overall);
- the administration costs of the CICA: currently c. £25m; and
- the 'equalities' characteristics of applicants (such as race, age and disability): men currently comprise 68% of award recipients and receive 65% of compensation by value. People in the 16 – 24, 25 – 34 and 35 – 44 age group are overrepresented amongst award recipients compared to the population at large, all other age groups are under-represented. Limited information is available on the other protected characteristics (disability, sexual orientation, gender reassignment, pregnancy and maternity, religion and belief and race) – see accompanying Equality Impact Assessment for details. New systems are in place at the CICA, so data on the current scheme will exist before the new scheme begins.

### **Success criteria:**

The policy reforms will be considered successful if the reduced costs as outlined in this IA are realised with no disproportionate impact on those applicants with protected characteristics. However, economic conditions and other factors will need to be taken into consideration. Success will also be measured by:

- Reduction in number of applicants and total value of compensation paid;
- Decrease in time to first decision;
- No long-term rise in proportion of claims where there are requests for review and appeal, or in proportion of reviews and appeals that are successful; and
- Decrease in the administration costs of the CICA

(There are no success criteria in relation to equalities data. The information will be monitored, and shifts in the profile of applicants will be considered to understand whether they are driven by changes in the scheme, or wider trends in crime and society more broadly.)

**Monitoring information arrangements:**

It is intended to make use of the information CICA routinely collects. This includes:

- Information on number of claims;
- number and value of awards;
- time to first decision;
- number and outcomes of reviews and appeals and administration costs; and
- Equalities data via an EOM form.

**Reasons for not planning a PIR:**

N/a

## Annex 2

The table below shows the number of victims who received tariff, loss of earnings and special expenses awards in each tariff band (averaged across 2008/09 and 2009/10).

Tariff Band	Approximate number of tariff awards made (includes awards for sexual offences, physical abuse and bereavement)	Approximate number of loss of earnings awards made	Approximate number of special expenses awards made	Approximate number of awards made for sexual offences and physical abuse	Approximate number of bereavement awards made
1	5610	50	0	370	0
2	2070	0	0	0	0
3	6310	10	0	60	0
4	640	0	0	0	0
5	4010	20	0	530	0
6	2660	30	10	0	0
7	3830	50	10	840	0
8	2220	30	0	0	0
9	3300	100	20	140	0
10	1630	60	10	60	870
11	400	20	10	250	0
12	1310	240	60	240	0
13	1490	80	20	1070	250
14	310	120	40	60	0
15	660	60	20	490	0
16	100	50	10	0	0
17	480	90	30	310	0
18	60	30	10	10	0
19	10	10	0	0	0
20	60	60	40	0	0
21	10	10	10	0	0
22	0	0	0	0	0
23	20	20	20	0	0
24	10	0	0	0	0
25	30	10	20	0	0
<b>Total</b>	<b>37220</b>	<b>1160</b>	<b>350</b>	<b>4410</b>	<b>1110</b>

Note: \*These data are taken from a large administrative system and therefore should be treated as approximate. The numbers given are an average of the 2008/09 and 2009/10 recorded volumes, rounded to the nearest 10 claims. Values in this table may not sum due to rounding, and may also not sum to those in Annex A of the consultation document due to rounding.

<b>Title:</b> Victims of Terrorism Overseas <b>IA No:</b> MoJ162  <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> Criminal Injuries Compensation Authority, Foreign and Commonwealth Office, Home Office	<b>Impact Assessment (IA)</b>				
	<b>Date:</b> 02/06/2012				
	<b>Stage:</b> Final				
	<b>Source of intervention:</b> Domestic				
	<b>Type of measure:</b> Secondary legislation				
<b>Contact for enquiries:</b> victimsconsultation@justice.gsi.gov.uk					
<b>Summary: Intervention and Options</b>				<b>RPC Opinion:</b> RPC Opinion Status	

Cost of Preferred (or more likely) Option					
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?		Measure qualifies as
N/Q	N/Q	N/Q	No		NA

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

In the past decade there have been terrorist attacks overseas in which British citizens resident in the UK have been killed or seriously affected. Whether terrorist attacks are targeted at individuals or more indiscriminately, terrorism is intended as a political statement and as an attack on a state and its people as a whole. It has ramifications for broader society beyond those who are directly affected by it.

Beyond the European Union, many countries do not have arrangements in place for the provision of payments to seriously affected victims of terrorism, or to the families and dependents of those killed in terrorist attacks taking place in their countries. This therefore leaves British and EU/EEA/Swiss citizens resident in the UK who are affected by terrorism overseas with little or no means of seeking financial payment.

Enabling provisions were passed by Parliament in the Crime and Security Act 2010 for introducing a statutory scheme to make payments to bereaved families and victims of terrorist incidents overseas. In line with the intentions of the previous administration, the Government intends to show solidarity with victims who are part of our community and have been caught up in acts of terrorism overseas, subsequently designated for the purposes of these schemes by making payments to those who have been seriously affected and who could not have reasonably anticipated a significant threat to their safety or security when travelling abroad.

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

The proposals seek to provide payments to British and EU/EEA/Swiss residents of the UK, who are seriously affected by acts of terrorism overseas in the absence of financial recompense elsewhere.

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

**Option 0:** Do nothing

**Option 1:** To make arrangements for a compensation scheme under the provisions in the Crime and Security Act 2010 for eligible victims of overseas terrorism that will make payments under the same categories as the revised domestic Criminal Injuries Compensation Scheme and come into force at the same time as this revised domestic scheme. To make payments via an ex gratia scheme for eligible victims of terrorism overseas, which will run until the commencement of a statutory based scheme for victims. Payments under the ex gratia scheme do not include payments for loss of earnings or special expenses, and are made only to victims who continue to have an ongoing disability as a direct result of their injuries.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 10/2015

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No

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What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: N/Q	Non-traded: N/Q
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***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

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

**Summary: Analysis & Evidence**

**Policy Option 1**

Description: Introduce a scheme for making payments to eligible victims of overseas terrorism

**FULL ECONOMIC ASSESSMENT**

• Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	<b>Net Benefit (Present Value (PV)) (£m)</b>		
			Low: N/Q	High: N/Q	Best Estimate: -

<b>COSTS (£m)</b>	<b>Total Transition (Constant Price) Years</b>	<b>Average Annual (excl. Transition) (Constant Price)</b>	<b>Total Cost (Present Value)</b>
Low	Not Quantified (N/Q)	N/Q	N/Q
High	N/Q	N/Q	N/Q
Best Estimate			

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

**Other key non-monetised costs by 'main affected groups'**  
 HM Government: payments to victims of terrorism overseas; potential operational/administrative costs of transfer of funds (including to the Criminal Injuries Compensation Authority); potential costs to First-tier Tribunal if they need to hear more appeals; potential costs to the High Court if appeals are unsuccessful at the First-tier Tribunal  
 Victim Support: potential one-off staff training costs for Victim Support  
 Insurance industry: possible cost from crowding out, which if it withdraws cover may impact on non-eligible UK residents  
 Those who assist/represent applicants: administrative costs

<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>	<b>Average Annual (excl. Transition) (Constant Price)</b>	<b>Total Benefit (Present Value)</b>
Low	Not Quantified (N/Q)	N/Q	N/Q
High	N/Q	N/Q	N/Q
Best Estimate			

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

**Other key non-monetised benefits by 'main affected groups'**  
 British and EU/EEA/Swiss residents of the UK will receive payments if they are seriously affected by acts of terrorism overseas that are so designated for the purposes of the schemes.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	N/A
Costs and benefits are contingent on the number of acts of terrorism and how many of the victims are eligible for compensation. Costs and benefits are also contingent on the severity of injuries resulting from these acts.		

**BUSINESS ASSESSMENT (Option 1)**

<b>Direct impact on business (Equivalent Annual) £m:</b>	<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: N/Q	No	NA
Benefits: -		
Net: N/Q		

## Evidence Base (for summary sheets)

### Introduction

1. This impact assessment is concerned with the intention to make available payments for eligible victims of overseas terrorist attacks designated for the purposes of the scheme. This impact assessment is an updated version of the impact assessment published on 30 January 2012, which covered proposals to open both an ex gratia scheme to make payments to past victims of overseas terrorism and a statutory scheme to make payments to victims of overseas terrorism. The ex gratia scheme was implemented in April 2012. However, it is retained in this impact assessment for completeness.
2. This impact assessment is one of a group of impact assessments to accompany the consultation response on the strategy for victims and witnesses. Other impact assessments on the consultation response will focus on:
  - An overarching impact assessment on the overall impact of all of the reforms
  - Quality and outcomes in Support Services
  - Locally led commissioning of victim services
  - Increasing and extending the Victim Surcharge, and increasing the value of Penalty Notices for Disorder to fund victims' services
  - Using money raised from motoring Fixed Penalty Notices increased by the Department of Transport to fund victims' services
  - Reform to the Criminal Injuries Compensation Scheme
3. Currently, victims of crime, including victims of terrorism, who sustain injury in Great Britain, can apply for compensation from the Criminal Injuries Compensation Scheme. Awards may be made up of payments for injuries and, where relevant, additional payments for loss of earnings and special expenses with the total award capped at £500,000. The Criminal Injuries Compensation Scheme operates in England & Wales and Scotland with a similar scheme operating in Northern Ireland. However, none of these schemes currently include any arrangements for making payments to British and EU residents of the UK who sustain injury overseas.
4. On 16 April 2012, the Government opened a scheme to make ex gratia payments to eligible victims of past overseas terrorist incidents in line with what was promised by the Government in 2010 and announced in Parliament at the Second Reading of the Crime and Security Bill. Payments under the ex gratia scheme are limited to payments under the tariff and do not include payments for loss of earnings or special expenses or payments to the bereaved. These payments are limited to those victims who continue to suffer a disability as a direct result of their injuries. The ex gratia scheme is intended to only be open for a short period of time, to cover the period until the statutory scheme covered by this impact assessment is opened.
5. When the ex gratia and statutory schemes were proposed by the Government the victims of overseas terrorist incidents had little or no chance of seeking financial redress from the perpetrators, the sponsors of terrorists, or from the state in which the incident occurred. Since 2006, the EU Directive 2004/80/EC has required all EU Member States to have in place arrangements for paying fair and appropriate compensation to victims of intentional, violent crime. Beyond the EU, there are many countries that do not have analogous state compensation arrangements in place.
6. There is some insurance cover available for some aspects of overseas terrorist attacks, in particular cover for medical expenses and repatriation. However, around 40% of travel insurance policies specifically exclude payments in respect of injuries sustained as a result of terrorist attacks. Furthermore travel insurance cover generally does not extend to compensation for loss of earnings, nor provide compensation for pain and suffering associated with the injuries sustained.
7. UK residents affected by overseas terrorist attacks can currently claim financial assistance from the Red Cross Relief Fund for UK Victims of Terrorism Abroad which was launched in May 2007 following a Government contribution of £1m. The Fund is administered by the British Red Cross and provides an immediate grant of £3,000 to help cover costs such as hospital bills, additional

accommodation, replacement of lost belongings and repatriation to the UK. A further £12,000 is available for ongoing costs.

8. British nationals affected by terrorism overseas may also access emergency support from the Exceptional Assistance Measures (EAM) scheme run by the Foreign and Commonwealth Office (FCO). The EAM scheme makes available emergency assistance to cover immediate needs such as flights, accommodation and subsistence if these cannot be met from other sources such as insurance arrangements. Assistance under these measures is not made available to those who have travelled to a region where the FCO had advised against all travel.
9. In some circumstances, charitable help may also be available. However, this often follows in the aftermath of a major event and amounts vary considerably. For example, the London Bombings Charitable Relief Fund was established following an outpour of public donations to provide financial relief to victims and their families following the 7/7 attack.

### **Rationale for intervention**

10. The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).
11. Terrorism is intended as a political statement and attack on society as a whole and has ramifications beyond those who are directly affected by it. As such the Government intends to show solidarity with British and EU/EEA/Swiss victims who are part of our community and have been caught up in terrorist incidents overseas designated for the purposes of these schemes by making payments to those who have been seriously injured and who could not have reasonably anticipated a significant threat to their safety or security when travelling abroad.

### **Main Affected Groups**

- Victims of acts of terrorism overseas and dependants of those who are fatally injured.
- The Criminal Injuries Compensation Authority.
- Government Departments such as the Ministry of Justice, Ministry of Defence, Foreign & Commonwealth Office, Home Office and HM Treasury.
- Her Majesty's Courts and Tribunals Service.
- Victims' organisations.
- Personal injury lawyers.
- Insurance providers.

### **Note on territorial application**

The proposals in this Impact Assessment apply to the UK as a whole.

### **Cost and Benefits**

12. This Impact Assessment identifies non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of each option are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups in society or changes in equity and fairness, either positive or negative.



13. This Impact Assessment sets out our current estimates for the costs and benefits of the proposal to the affected groups. These estimates are based on the evidence that is currently available, and are subject to change as the evidence base improves. As such, the estimates are represented as ranges based on assumptions detailed in the discussion of costs and benefits below.

**Base Case / Option 0**

14. Under the ‘do nothing’ scenario, British and EU/EEA/Swiss victims of overseas terrorism resident in the UK would have continued to remain without access to any UK state funded compensation if they sustain injury overseas. Eligible victims may be able to access some support from the Foreign and Commonwealth Office’s ‘Exceptional Assistance Measures’ for terrorist incidents overseas, limited financial support from the Red Cross Relief Fund for UK Victims of Terrorism Abroad and from those countries that have compensation schemes in place. Various types of insurance cover would also continue to be available from the insurance market.
15. Because the do-nothing option is compared against itself its costs and benefits and necessarily zero, as is its Net Present Value (NPV)<sup>49</sup>.

**Option 1**

16. Option 1 recommends introducing schemes for making payments to eligible victims of overseas terrorism.
17. Payments will be made via an ex gratia scheme for eligible victims of terrorism overseas, which will run until the commencement of a statutory based scheme for victims in the future.
18. The statutory scheme will be based on a revised domestic scheme for which Ministers have been considering proposals for reform. Reform proposals include elimination of current tariff bands 1-5, reductions to tariff bands 6-12 whilst protecting tariff bands 13-25. Further details on these and the other reform proposals can be found in the accompanying Impact Assessment on Reform to the Criminal Injuries Compensation Scheme.

Policy Proposals	Statutory scheme	Ex gratia scheme
Eligibility criteria 1 to receive payments.	Must be a British or EU/EEA/Swiss citizen resident in the UK for 3 years or more immediately prior to the terrorist incident. Members of the Armed Forces (and their accompanying dependents) will be exempt from having to demonstrate the nationality and residence requirements, and Crown servants (and their accompanying dependents) from the residence requirements, in recognition of the particular demands that arise as a result of service to the UK Government.	Must be a British or EU/EEA/Swiss citizen resident in the UK for 3 years or more immediately prior to the terrorist incident. Members of the Armed Forces (and their accompanying dependents) are exempt from having to demonstrate the nationality and residence requirements, and Crown servants (and their accompanying dependents) from the residence requirements, in recognition of the particular demands that arise as a result of service to the UK Government.
Eligibility criteria 2 to receive payments.	Must have an injury that appears in the CICS tariff (in line with the revised CICS) as a direct result of a terrorist attack overseas, subsequently designated for the purposes of the scheme, to engage the tariff for injuries.	Must have an ongoing disability, defined in accordance with section 6 of the Equality Act 2010, that has arisen or been exacerbated as a direct result of an injury sustained during a terrorist attack overseas, subsequently designated for the

<sup>49</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

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		purposes of the scheme, and that appears in the 2008 CICS tariff. It must further be present when an application is made to the ex gratia scheme.
Designation of terrorist attacks for the purposes of the scheme.	<p>Must be designated by the Secretary of State for the purposes of the scheme including giving consideration to:</p> <p>a. Whether in the view of the Secretary of State the act constitutes terrorism within the meaning of the Terrorism Act 2000 (see section 1 of that Act); and</p> <p>b. whether FCO travel advice was against all travel at the time of incident, subject to any exceptional circumstances.</p>	<p>Must be designated by the Secretary of State for the purposes of the scheme including giving consideration to:</p> <p>a. whether in the view of the Secretary of State the act constitutes terrorism within the meaning of the Terrorism Act 2000 (see section 1 of that Act); and</p> <p>b. whether FCO travel advice was against all travel at the time of incident, subject to any exceptional circumstances.</p>
Types and Amounts of Payments.	To make available payments for pain and suffering according to a scale of tariff bands, loss of earnings and special expenses as will be available under a revised CICS. Deductions will be made, in general, in line with the domestic scheme under corresponding heads of loss with the exception of travel insurance cover which will be taken into consideration.	To make available payments in line with the tariff bands for pain and suffering under the current 2008 CICS.
Timing	This scheme should come into force at the same time as the revised CICS.	This scheme was opened for applications in April 2012 for eligible victims injured in incidents from 1 January 2002 and will run until the statutory scheme comes into force.

### Costs of Option 1

19. Costs arising from this option are only possible to illustrate with a wide range of uncertainty. It is uncertain when and where an act of terrorism might occur. Costs and transfer payments can be divided into:
- i. **Operating costs:** There are direct costs related to setting up the scheme, and ongoing costs incurred by affected organisations from having the scheme in place. These costs would largely depend on the number and scale of acts of terrorism and the number of people applying for payments under the scheme.
  - ii. **Payments:** These are the payments (technically transfers) resulting from the funds paid to individuals and is contingent on the scale and number of acts of terrorism designated for the purposes of the scheme.

#### Statutory scheme

20. The cost of any scheme would be dependent on the number of and impact of any overseas acts of terrorism. It is therefore not possible to predict the cost of such a scheme with any degree of accuracy.

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These costs would be shared between the Ministry of Justice, Home Office and Foreign and Commonwealth Office.

### *Ex gratia scheme*

21. The cost of the scheme, which will run until the commencement of the statutory scheme, is dependent in part on the number and impact of any overseas terrorist attacks that occur between now and the commencement of the statutory scheme. It is therefore not possible to predict the cost of such a scheme with any degree of accuracy.
22. We currently estimate there may be around 50-100 potentially eligible known victims. We know that the average CICS tariff award for 7/7 victims was around £6,000. However, we cannot use these figures to give the costs of the ex gratia scheme because there may be more victims that we do not know about. In addition, the severity of their injuries is unknown. There is no reason to believe the average severity of injury of a domestic attack would be the same as a foreign attack, especially given the relatively small number of victims involved.

### *Costs to CICA/MoJ and Scottish Government:*

23. There will be costs to CICA (which is wholly funded by the MoJ and Scottish Government) of setting up the scheme and training claims officers in the rules of the proposed new scheme.

### *Costs to the FCO:*

24. There will be costs to the FCO for its Counter Terrorism Department which would need to provide robust advice to Ministers on designation and service litigation.

### *Costs to the Tribunal Service: First-tier Tribunal – Criminal Injuries Compensation (FTT-CIC):*

25. There will be additional costs to the First-tier Tribunal which will hear and decide appeals against decisions made by the CICA. The magnitude of those costs would depend on the number of appeals.

### *Costs to the High Courts*

26. An individual can raise an appeal at the High Court if unsuccessful at First-tier Tribunal. There might be additional costs arising to High Courts if a case has not been settled through the Tribunal. Depending on the number of cases, these costs can vary widely, but could range between £40,000 to £100,000 per case. The total costs would depend on the number of appeals made per year and whether the appeal has been won by the individual who raised the appeal.

### *Costs to Victim Support*

27. There may be a one off cost incurred by Victim Support. Victim Support currently provides free advice to applicants under the Criminal Injuries Compensation Scheme and may undertake a similar role in relation to the scheme for victims of overseas terrorism. It is likely that one off costs, such as staff training costs would be incurred by this organisation but these costs are likely to be small. There may also be ongoing staff costs from providing support to victims, but these may not be additional unless there is a large increase in volume of incidents.

### *Costs to the insurance industry*

28. Currently around 60% of travel insurance does not exclude costs arising from terrorist attacks abroad. Travel insurance often covers medical expenses and repatriation costs but not compensation for physical injury. If the UK Government provided equivalent cover as well, without charging a premium, there would be little incentive for people to pay extra for travel insurance which does not include exclusions relating to terrorist attacks. This may lead to travel insurance contracts no longer including this cover. The resultant crowding out may cause financial harm to the insurance industry. Additionally, the policy on making deductions will be the same as the revised domestic scheme with the exception of travel insurance cover which will be taken into consideration when finalising awards under the statutory scheme for victims of terrorism overseas. This may further reduce the demand for private insurance.
29. The extent of this impact is unclear. The Government's proposed new scheme is limited to a maximum amount of compensation lower than the level of cover recommended for medical expenses by the FCO<sup>50</sup>. This implies that any crowding out might be partial, especially if there is uncertainty around

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<sup>50</sup> FCO travel insurance advice is to arrange medical and health insurance cover for at least £1m for Europe and at least £2m for the rest of the world. <http://www.fco.gov.uk/en/travel-and-living-abroad/staying-safe/travel-insurance/medical-health>

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whether a future incident might be designated by the Secretary of State for Foreign and Commonwealth Affairs and if the Government's scheme does not cover all consumers.

*Costs to those who assist/represent applicants:*

30. As we do not know how many claims are likely to arise, we do not know what the costs might be to organisations that might seek to assist those that might seek to make these claims.

*Costs to UK residents who are not eligible nationals*

31. UK residents who do not qualify to apply for compensation under the scheme may currently take out travel cover which does not include exclusions relating to terrorist activity. If this type of cover was no longer provided by the insurance market, as explained above, these UK residents would not be covered by the private or public sector in future.

### **Benefits of Option 1**

#### Statutory scheme

32. British and EU/EEA/Swiss residents of the UK will benefit from payments, from which deductions will be made in line with the revised domestic scheme with the exception of travel insurance cover which will be taken into consideration, if they are seriously affected by acts of terrorism overseas that are designated for the purposes of the scheme.

#### *Ex gratia scheme*

33. There will be a benefit to British and EU/EEA/Swiss residents of the UK who continue to have ongoing disabilities as a direct result of terrorist attacks overseas that are so designated for the purposes of the scheme.

### **Net Impact of Option 1**

34. There will be a positive impact in that financial support will be available to British and EU/EEA/Swiss residents of the UK if they are seriously affected by acts of terrorism overseas that are designated for the purposes of the schemes.

### **Key Risks and Assumptions**

35. The costs and benefits are dependent on the number of and impact of any overseas acts of terrorism.

## **Specific Impact Tests**

### **Statutory equality duties**

36. An Equality Impact Assessment is included as a separate document.

### **Competition Assessment**

37. Will the proposal:

- Directly limit the number or range of suppliers (or providers)?
- Indirectly limit the number or range of suppliers (e.g. by altering demand)?
- Limit the ability of suppliers to compete?
- Limit suppliers' incentives to compete vigorously?

38. In respect of the market for providing travel insurance cover for medical expenses and repatriation costs stemming from an overseas terrorist attack, there may be an impact. Public provision of this cover without charging premiums may cause suppliers to stop providing this cover because there would be reduced demand for private provision. In effect government provision could crowd out the private sector. The Association of British Insurers considers that around 60% of travel insurance contracts do not have an exclusion relating to overseas terrorist attacks. In effect there may no longer be any private sector suppliers hence all four counts above would be met.

39. In practice the Government's proposal is limited to a maximum amount of compensation lower than the level of cover recommended for medical expenses by the FCO. In addition there is some uncertainty surrounding which incidents might be designated by the Secretary of State for the purposes of the schemes, and not all consumers would be covered by the Government's proposals.

The outcome on crowding out is unknown, although we adopt the cautious assumption that some crowding out is likely to take place. The FCO advise those travelling abroad to take out adequate and comprehensive travel insurance, and recommends that, where possible, travellers should ensure that their policy does not exclude terrorism. Such advice will not alter following the introduction of any scheme to compensate British and EU/EEA/Swiss residents of the UK who become victims of terrorism overseas.

40. In addition we might consider the private market for travel insurance related to compensation for injury, loss of earnings and death from terrorist attacks outside of the UK. Introducing public provided compensation would mean that it would be costlier if not unfeasible for firms who may want to establish private provision in the future. This is because they would have to compete with the public provider who does not collect premiums, and hence which acts as a considerable barrier to entry to the market. As this market does not exist at present this is more of a hypothetical anti-competitive effect.

### **Small Firms Impact Test**

41. There may be some impact on small firms including travel insurers and personal injury lawyers.
42. The availability of new payments for eligible victims of terrorism overseas may result in an increase in the demand for assistance with claims for personal injury lawyers, generating more work for these firms. We do not have any data on how many claims are likely to arise from victims of terrorism overseas or how many applicants might seek legal assistance with their claim. We therefore cannot predict what, if any, impact there will be on small firms.
43. The availability of new payments may also result in a reduction in the demand for private travel insurance as described above at paragraphs 27-28. Any impact should be limited in that the amount of compensation available under the scheme will be lower than the level of cover recommended by the FCO. Additionally, claims from people who have travelled to a country or region where the FCO has advised against all travel are unlikely to be designated for the purposes of the scheme.
44. As the scheme will apply equally to all British and EU/EEA/Swiss residents in the UK who are victims of terrorism overseas, it would not be possible to make exemptions, or provide a different approach, for small firms. As we do not have any data on the number of claims that are likely to arise as a result of terrorism overseas, we do not have any data on the proportion of firms that are likely to be affected.

### **Carbon Assessment**

45. It is unlikely the proposal will have an impact on the emission of greenhouse gases.

### **Other Environment**

46. It is unlikely the proposal will have any other environmental impacts.

### **Health Impact Assessment**

- Will your policy have a significant impact on human health by virtue of its effects on the following wider determinants of health? : Income; crime; environment; transport; housing; education; employment; agriculture; social cohesion.
47. There may be a positive impact on the health of eligible victims of terrorism overseas as a result of them receiving new payments.
- Will there be a significant impact on any of the following lifestyle related variables? : Physical activity; diet; smoking, drugs or alcohol use; sexual behaviour; accidents and stress at home or work.
48. We do not anticipate a significant impact on these variables.
- Is there likely to be a significant demand on any of the following health and social care services? : Primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services; health protection and preparedness response.
49. We do not anticipate a significant demand on these variables.

### **Human Rights**

50. The policy proposal to introduce a scheme to compensate certain eligible victims of terrorism overseas has been developed to conform with the Human Rights Act where relevant.

### **Justice Impact Test**

51. Impacts on the justice system are covered in the main body of this Impact Assessment.

### **Rural proofing**

52. It is unlikely the proposal will have an impact on the circumstances and needs of rural people and places.

### **Sustainable Development**

53. It is unlikely the proposal will have a negative impact on any of the following principals of sustainable development:

- Living within environmental limits;
- Ensuring a strong, healthy and just society;
- Achieving a sustainable economy;
- Promoting good governance;
- Using sound science responsibly.

54. The proposals may, however, have a positive impact on ensuring a strong, healthy and just society. Making financial payments available to British and EU/EEA/Swiss residents in the UK who have been affected by terrorism overseas may help counteract terrorist ideology that the Government does not support its citizens, as well as aiding the recovery of victims in the aftermath of an act of terrorism overseas.

55. There is a risk that the proposals may have a negative impact on achieving a sustainable economy in that new payments will be made available to eligible victims seriously affected by terrorism overseas. However, any costs would be dependent on the number and impact of any overseas terrorist incidents that have been designated for the purposes of the scheme. It is not possible to predict the cost of such a scheme with any degree of accuracy.

### **Privacy Impact Test (an MoJ Specific Impact Test)**

56. Claimants will need to provide some personal data to prove eligibility for compensation. This may include, among other data, both medical and criminal records, and proof of residence.

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

### Basis of the review:

It is intended to review the policy between three and five years after the implementation date.

**Review objective:** To ascertain whether the policy proposals achieve their objectives in making payments available to British and EU/EEA/Swiss residents in the UK who are seriously affected by terrorism overseas whilst also building up a demographic profile, including protected characteristics under the Equality Act 2010, of potential applicants.

**Review approach and rationale:** Review of the policy will take the form of a monitoring framework to assess whether the aims of the policy are being achieved. Data will be collected on:

- the number of applications and the amount of payments awarded;
- the time taken to process applications;
- the proportion of claims that request reviews and subsequently appeals
- the administration costs of the Criminal Injuries Compensation Authority; and
- the protected characteristics of applicants (such as race, gender and disability)

### Baseline:

This is a new provision being made available to British and EU/EEA residents of the UK seriously affected by terrorism overseas.

**Success criteria:** The policy proposals will be considered successful if payments are made to eligible British and EU/EEA/Swiss victims of terrorism overseas. (We will also monitor the time taken to make payments and the accuracy of initial decisions. However, as we do not have a baseline, at this stage there are no specific success criteria for these measures.)

### Monitoring information arrangements:

It is intended to put in place arrangements for collecting and recording information. This will include:

- Information on number of claims;
- number and value of awards;
- time to first decision;
- number and outcomes of reviews and appeals and administration costs; and
- equalities data via an EOM form.

### Reasons for not planning a PIR:

N/A