

Title: Consultation on the Domestic Abuse and Violence Bill IA No: MoJ016/2017, HO0300 RPC Reference No: Lead department or agency: Home Office Ministry of Justice Other departments or agencies:	Impact Assessment (IA)			
	Date: November 2017			
	Stage: CONSULTATION			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries:				
Summary: Intervention and Options				RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option				
Total Net Present Value (NPV)	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-£250m	N/A	N/A	Not in scope	Not a regulatory provision

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

Despite recent good progress tackling domestic abuse, the incidence of offences remains high, with 1 in 10 crimes reported to the police being domestic abuse-related. In 2015/16 nearly 10 per cent of women and 5 per cent of men experienced domestic abuse, including 96 fatalities. Only the Government can intervene legislatively to transform the culture around domestic abuse, provide all possible protection, support and strengthen the Criminal Justice System (CJS) response to it. Therefore the Domestic Abuse and Violence Bill is proposed.

What are the policy objectives and the intended effects?

The proposed Bill has five strategic objectives: (1) raise awareness and challenge assumptions, (2) support victims and children, (3) create a CJS that serves victims, (4) reduce offending and reoffending and (5) drive consistency and better performance in the response to domestic abuse. The intended effects are to: permanently change culture around, and response to, domestic abuse, improve support for victims, decrease the incidence of domestic abuse and reduce both the emotional and financial costs to victims, their families and the public and private sector.

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

Option 0: Do Nothing. Do not implement the measures in the Bill (the current position).
Option 1: Implement the measures in the Bill. This is the Government’s preferred option. This option comprised of the following measures:
 (a) Introduce a statutory definition of domestic abuse. (b) Create the role of Domestic Abuse Commissioner. (c) Create a domestic abuse protection notice and order. (d) Create a statutory aggravating factor in sentencing. (e) Extend extraterritorial jurisdiction over specified offences involving Violence Against Women and Girls, as required by the Istanbul Convention. (f) Put the guidance behind the Domestic Violence Disclosure Scheme on a statutory footing.
 Option 1 is the Government’s preferred approach as it meets the policy objectives. While the Government believes that the combined effect of all the measures is likely to be greater than the sum of the effect of each individual measure, this IA will consider each measure separately.

Will the policy be reviewed? Subject to consultation. If applicable, set review date: N/A at this stage				
Does implementation go beyond minimum EU requirements?			No	
Are any of these organisations in scope?			Micro No	Small No
			Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A

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

Signed by the responsible Minister: Date: _____

Summary: Analysis & Evidence

Measure (a)

Description: Introduce a statutory definition of domestic abuse.

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

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

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

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

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

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

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

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

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

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

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

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

For all measures it is assumed that the benefits to society would not be negligible, see paragraphs 141 to 146. In the absence of monetised benefits, only present value costs are shown on page 1. Therefore, the net present value does not fully reflect the impact on society of the proposed measures.

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

BUSINESS ASSESSMENT (Measure (a))

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

Summary: Analysis & Evidence

Measure (b)

Description: Create the role of Domestic Abuse Commissioner.

FULL ECONOMIC ASSESSMENT

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

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	1	8

Description and scale of key monetised costs by ‘main affected groups’

The key monetised cost would be the commissioner’s salary and variable overhead costs, as well as staffing the commissioner’s office. The commissioner’s office is assumed to consist of 15 staff at a total cost of approximately £1 million per year.

Other key non-monetised costs by ‘main affected groups’

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

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

Description and scale of key monetised benefits by ‘main affected groups’

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

Other key non-monetised benefits by ‘main affected groups’

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

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The salaries assumptions are based on the Home Office pay scales in 2017/18 deflated to 2015/16 prices to ensure consistency with the analysis with the other measures.

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

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Measure (c)

Description: Create a domestic abuse protection notice and order.

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	15	130
High	N/A	23	190
Best Estimate	N/A	19	160

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

The cost to HM Prisons & Probation Service is estimated at £7.0 to £9.8 million per year associated with criminalisation of breach. This would include 70 to 110 additional prison places per year and additional offenders receiving probation supervision in the community.

An estimated increase in protective order applications and criminal breach proceedings could cost the Legal Aid Agency an estimated £3.4 to £5.9 million per year and HM Courts & Tribunal Service an estimated at £2.4 to £3.7 million per year.

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

Cafcass and Cafcass Cymru: There are potential resource costs for Cafcass practitioners associated with applications being made for domestic abuse protection orders.

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

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

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

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

If the measure leads to earlier intervention in the cycle of domestic abuse, it may prevent the escalation of abuse and reduce reoffending.

The scope widening aspect of this measure could benefit victims by taking the onus off the victim to apply to the courts for an order, as agencies could do this on their behalf.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
<p>It is assumed that increasing the accessibility of who can apply for these orders would increase the volume of applications by between 5 and 10 per cent.</p> <p>An important risk is that the estimates are subject to the new domestic abuse protective order framework being used for all relevant offences for which this intervention has been considered appropriate. However, if practitioners such as the police continue to use the existing framework then the impacts could differ to those presented.</p>		

BUSINESS ASSESSMENT (Option 2)

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

Summary: Analysis & Evidence

Measure (d)

Description: Create a statutory aggravating factor in sentencing.

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	2	18
High	N/A	4	32
Best Estimate	N/A	3	25

Description and scale of key monetised costs by ‘main affected groups’

The costs of this measure are assumed to only impact HM Prisons & Probation Service, through increasing the number of required prison places by 80 to 130 per year. The associated cost to HMPPS is estimated at £2 to £4 million per year.

Other key non-monetised costs by ‘main affected groups’

Whilst the judiciary are already familiar with aggravating factors in sentencing, there could be some minor familiarisation costs associated with revised Sentencing Council guidelines.

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

Description and scale of key monetised benefits by ‘main affected groups’

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

Other key non-monetised benefits by ‘main affected groups’

There are no identified non-monetised benefits associated with this measure above those identified for the whole package of measures, see paragraphs 141 to 146.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

It is assumed that there is no indirect impact through behavioural change leading to increased sentences being passed.

A considerable risk is the use of sample data in analysis meaning there could be an issue of selection bias as some regions were found to flag domestic abuse related offences more consistently.

BUSINESS ASSESSMENT (Option 3)

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

Summary: Analysis & Evidence

Measure (e)

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

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		6.4	56

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

The majority of the costs associated with this measure impact HM Prisons & Probation Service, and are estimated at £4.1 million per year (63% of the total). Most of this cost would be associated with an increase of 150 prison places per year.

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

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

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

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

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

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

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

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

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

The quality assurance processes for the external datasets used are not known.

BUSINESS ASSESSMENT (Option 4)

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

Summary: Analysis & Evidence

Measure (f)

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

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 18/19	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	0.3	2.4
High	N/A	0.6	4.8
Best Estimate	N/A	0.4	3.6

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

The costs of this measure are assumed to only impact the police, through increased use of the scheme, and are estimated at £0.3 to £0.6 million per year.

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

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

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

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

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

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

Improving and increasing police application of the scheme would provide greater protection to potential victims of domestic abuse.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

The increase in the use of the scheme is assumed to be between 5 and 10 per cent. A considerable risk is that the unit cost of police time is based on data reported by one force (Wiltshire) in 2012/13 so is unlikely to be representative of all 43 forces in 2015/16. Although the cost of police time has been adjusted to the 2015/16 price level, the time taken by police may have fallen since the introduction as forces become more used to the scheme.

BUSINESS ASSESSMENT (Option 5)

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

Evidence Base (for summary sheets)

A. Background

1. This Government has taken strong, positive steps towards eradicating domestic abuse. Since 2014, it has rolled out domestic violence protection orders (DVPOs) and the domestic violence disclosure scheme (DVDS). In 2015, it introduced a specific offence of domestic abuse which outlaws patterns of controlling or coercive behaviour. Additionally, it has placed domestic homicide reviews on a statutory basis and driven improvements to the police response by overseeing delivery of recommendations from inspections by HM Inspectorate of Constabulary and Fire Service. In 2016, the Government published the Cross-Government Violence against Women and Girls Strategy¹ which details the ongoing commitment to tackling this issue and making domestic abuse 'everyone's business'.
2. Despite this progress, there is still much more to do: there are still two million victims of domestic abuse every year² and in too many cases domestic abuse related offences are still not understood, recognised and dealt with appropriate seriousness. The latest prosecution statistics published by the Crown Prosecution Service (CPS) on 10 October 2017 that show while over the last ten years conviction volumes for domestic abuse have risen by 61 per cent, there has been a fall in both prosecutions (by 7.3%) and convictions (by 5.8%) in 2016/17 with parallel falls in referrals from the police³.
3. On 17 February 2017, the Prime Minister announced a new programme of work leading towards a Domestic Abuse and Violence Act to transform how government thinks about and tackles these crimes in all areas of Government and across agencies. That commitment to legislation was reiterated in the Queen's Speech in May 2017 and is being supported by an additional £20 million of dedicated funding for victims of domestic abuse.
4. This Impact Assessment (IA) accompanies the public consultation on the measures we are considering for inclusion in the draft Domestic Abuse and Violence Bill and some wider non-legislative measures. The consultation is open from 29 November 2017 until 9 February 2018. This IA only focuses on the six legislative measures where there is sufficient evidence to enable an assessment of the costs and benefits. A more detailed IA will be produced alongside the response to the consultation.

B. Policy Rationale & Objectives

Economic Rationale

5. The conventional economic approach to Government intervention is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (for example, monopolies overcharging consumers) or there are strong enough failures in existing Government interventions (for example, waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and re-distributional reasons (for example, to reallocate goods and services to the needier groups in society).
6. The rationale for intervention in this case relates to equity. The interventions outlined in this IA are intended to provide greater support to victims of domestic abuse, recognise the seriousness of domestic abuse, and associated culture change, in the interactions between perpetrators and the Criminal Justice System (CJS).

¹ <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020>

² ONS statistics for year ending March 2016 (section 4):

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2016#prevalence-of-domestic-abuse-from-the-crime-survey-for-england-and-wales>

³ <http://www.cps.gov.uk/data/violence-against-women/vawq-2016-17-report.html>

Policy objective

7. The overall objective is that the Bill would underpin a lasting culture change in terms of the understanding of and response to domestic abuse, leading to:
 - 1) Increased awareness and understanding of domestic abuse across statutory agencies and in public attitudes.
 - 2) Improved support for all victims of domestic abuse and the children who are affected by it.
 - 3) Improved access to protection and redress through the justice system.
 - 4) A reduction in offending and reoffending.
 - 5) Improved consistency and performance in the response to domestic abuse across all agencies.
8. The intention is that, as a result of these improvements, support for existing victims improves and the prevalence of domestic abuse falls, leading to a reduction in both the emotional and social costs to victims and their families and the financial costs to the public sector and employers.
9. To address these objectives we propose to introduce the following legislative measures through the Bill:
 - a) **Introduce a statutory definition of domestic abuse:** This would provide a clear definition of domestic abuse, which recognises that domestic abuse can extend beyond violence to other forms of abuse, to link to other measures in the Bill. The definition may largely reflect the current non-statutory cross-Government definition of domestic abuse of: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse involving intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to: psychological, physical, sexual and emotional abuse. However, the new statutory definition would also include 'economic' abuse⁴ as a form of abuse (rather than 'financial' abuse).
 - b) **Create the role of Domestic Abuse Commissioner:** Establish a national figure head to stand up for victims and survivors of domestic abuse, raise public awareness, monitor the response of statutory agencies and local authorities and hold the Government and public bodies to account in tackling domestic abuse.
 - c) **Create a domestic abuse protection notice and order:** Provide the police with a notice and the courts with an order which allows them to better protect victims and potential victims from the harm a perpetrator poses. The notice would allow the police to facilitate immediate, short term protection to the victim from their perpetrator whilst the relevant agencies consider if a longer term order would help protect the victim. The order would offer longer term protection to the victim by attaching conditions that the perpetrator must comply with and criminalising breach if these are not adhered to.
 - d) **Create a statutory aggravating factor in sentencing:** To cover circumstances of domestic abuse, including offences involving, or with particular impact on, a child.
 - e) **Extend extraterritorial jurisdiction:** Demonstrate our commitment to ratifying the Istanbul Convention⁵ by extending our extraterritorial jurisdiction over specified offences involving violence against women and girls (VAWG).
 - f) **Place the guidance underpinning the Domestic Violence Disclosure Scheme (DVDS) on a statutory footing:** Improve understanding and awareness of the DVDS amongst police to

⁴ The consultation document sets out economic abuse as financial abuse (that is, limiting access to financial resources) in addition to being denied access to basic resources such as food, clothing and transportation and/or being forced to take out loans or entering into other financial contracts by the perpetrator.

⁵ The Istanbul Convention aims to create a legal framework at pan-European level to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence <https://www.coe.int/en/web/istanbul-convention/about-the-convention>. The UK signed the Convention in June 2012 and the Government has committed to ratifying it.

Domestic Abuse Bill consultation IA

improve consistency in the use of the scheme across forces to ensure that potential victims are provided with appropriate information about the risk their partner or ex-partner may pose.

C. Affected Stakeholder Groups, Organisations and Sectors

10. The following groups would be most affected by this policy:

- Victims.
- The Judiciary.
- HM Courts and Tribunal Service (HMCTS).
- HM Prison and Probation Service (HMPPS).
- The Crown Prosecution Service (CPS).
- Children and Family Court Advisory and Support Service (Cafcass) and Cafcass Cymru.
- The National Probation Service (NPS).
- Community Rehabilitation Companies (CRCs).
- The police.
- The Legal Aid Agency (LAA).
- Victim support agencies.
- Perpetrators.
- Police and Crime Commissioners.
- Local authorities.
- Providers of programmes for perpetrators to raise their awareness of domestic abuse and change their behaviour.

D. Description of Options Considered

11. To meet the policy objectives set out in paragraph 7, the Government proposes to implement the legislative measures under Option 1 as set out in paragraph 9. Option 1 includes all legislative measures because they collectively form a cohesive approach across the CJS to address issues relating to domestic abuse. The Government's approach could be undermined if certain measures were excluded from the Bill. Therefore, although this IA estimates the potential impact of each measure separately, all measures are presented collectively in the summary of total costs in Table 6, at the end of the cost benefit analysis section.

(a) Address the lack of a consistent definition of domestic abuse which recognises that domestic abuse can extend beyond violence into other forms of control

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

- a) Option 0: **Do Nothing.** The current, non-statutory, cross-Government definition of domestic abuse would remain, however the opportunity to increase awareness of the complexity of domestic abuse and to challenge the myths and stereotypes surrounding domestic abuse would be missed and other measures in the Bill would not be linked to a definition.
 - b) Option 1: **Introduce a statutory definition of domestic abuse.** The statutory definition would provide a single definition of domestic abuse in statute. This is not intended to automatically replace other references to domestic violence or abuse in legislation.
13. Option 1 is the preferred approach because it would help ensure domestic abuse is properly understood to drive a much needed wider culture change. Without a statutory definition, it would be more difficult to make clear the potential remit of Domestic Abuse Protection Orders and the Commissioner, for instance. It would also create a definition to inform and be used in future work to tackle domestic abuse.

(b) Address the lack of visibility and a national voice specifically for victims of domestic abuse.

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

- a) Option 0: **Do Nothing.** This would maintain the status quo where the Government and its inspectorates drive improvements in tackling domestic abuse, and work with partners from the domestic abuse sector to ensure the needs and experience of victims are included in policy making, without a Commissioner to raise public awareness and monitor progress.
 - b) Option 1: **Establish a Domestic Violence and Abuse Commissioner.** The Commissioner would stand up for victims and survivors, raise public awareness, monitor the response of statutory agencies and local authorities and drive improvements in tackling domestic abuse. The Domestic Abuse Commissioner would be able to work with other Commissioners for victims (for example, Anti-Slavery Commissioner, Victims Commissioner).
15. Option 1 is the preferred approach because it would provide a louder voice for victims of Domestic Abuse and a 'critical friend' to ensure policies are fit for purpose and are achieving improvements.

(c) Create a domestic abuse protection notice and order

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

- a) Option 0: **Do Nothing.** This would maintain the current situation where a number of different civil orders are available to the courts and where there is not one clear route which can be used to specifically seek to secure protection for domestic abuse victims.

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

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

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

Domestic Abuse Bill consultation IA

of non-molestation orders and restraining orders are criminal offences however, breaches of DVPOs and occupation orders are not criminalised.

- b) Option 1: **Introduce a new Domestic Abuse Protection Notice (DAPN) and Protection Order (DAPO)** which would combine the strongest elements of the existing order regime to create a simpler and more flexible pathway for practitioners seeking to protect domestic abuse victims. Both the notice and order would be able to be used to protect victims from non-violent abuse (which would be within the scope of the definition of domestic abuse in the Bill). There would be a criminal penalty for breach of the order. The DAPO would be available in the criminal, civil and family courts and would last for a specified period or until further order by the court (with the ability for variation, renewal or discharge of the order) and courts would be able to attach conditions to the order setting out both prohibitions and positive requirements, including electronic monitoring and notification requirements. The Government would support legislating to introduce DAPNs and DAPOs with a programme of work which would include training, communications and awareness-raising for key agencies.

17. Option 1 is the preferred approach. This would introduce a 'go to' order for police and courts which is envisaged to prove more effective at protecting victims as it could be used flexibly to cover all types of domestic abuse cases and the conditions attached could be tailored according to the risk posed to the victim and for the time period required in order to provide the victim with protection.

(d) Create a statutory aggravating factor in sentencing

18. To meet the policy objectives, two options have been considered:
- a) Option 0: **Do Nothing.** The court would continue to be required to use sentencing guidelines, unless it is contrary to the interest of justice to do so, but not be required to state in open court whether or not the factor had been applied. Newly drafted guidelines clearly state that the context of domestic abuse is an aggravating factor and to consider the impact of the offence on children. This makes the offence more serious and therefore likely to lead to a higher sentence. However, this aggravating factor does not have to be specifically considered.
- b) Option 1: **Create a new statutory aggravating factor covering circumstances of domestic abuse and including offences where a child is present.** The court would then be required to specifically consider domestic abuse as an aggravating factor in the offence which merits a higher sentence within the maximum available. The court would be required to state in open court that the sentencing decision has been aggravated by the statutory factor.
19. Option 1 is the preferred approach because putting an aggravating factor on a statutory footing for offences involving domestic abuse (including those where a child is involved) would give a clear acknowledgement of the negative impact domestic abuse can have.

(e) Extend extraterritorial jurisdiction

20. To meet the policy objectives, two options have been considered:
- a) Option 0: **Do Nothing.** This would mean the Government is unable to ratify the Istanbul Convention, thereby foregoing an opportunity to demonstrate full commitment to ending violence against women and domestic violence.
- b) Option 1: **Take extraterritorial jurisdiction (ETJ) over offences that the Government decides are necessary for the ratification of the Istanbul Convention.**
21. Option 1 is the preferred approach because it would enable the Government to move towards ratification of the Istanbul Convention, increasing protection for victims of those offences overseas. It would also enhance the reputation of the UK as a world leader in tackling violence against women and potentially encourage other countries to do the same.

(f) **Domestic Violence Disclosure Scheme**

22. To meet the policy objectives, two options have been considered:
- a) Option 0: **Do Nothing**. This would maintain the current situation where police miss opportunities to use the scheme to share information with potential victims of domestic abuse and do not apply the scheme consistently across forces.
 - b) Option 1: **Place the guidance underpinning Domestic Violence Disclosure Scheme on a statutory footing**: This would require the police to have regard to the guidance and so improve consistency in the application of the scheme.
23. Option 1 is the preferred approach because it would raise awareness of the DVDS and drive better consistency in its application

E. Cost and Benefit Analysis

24. This IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society could be as a result of implementing the preferred option. The costs and benefits of each measure are compared to the 'base case' option (Option 0: 'Do nothing'), i.e. where the proposed measures in the Bill are not introduced. As this would involve comparing the base case option to itself, its costs and benefits are necessarily zero and will be its NPV.
25. For the majority of the measures, there are only monetised costs. This is because there is less certainty around the modelling of benefits, as the benefits either cannot be monetised (for instance, victims feeling safer) or rely on an observed decrease in domestic abuse offences or the seriousness of domestic abuse offences (which cannot be forecast with any certainty). The non-monetised benefits for victims and wider society are summarised under the relevant measure below and in a narrative at the end of the cost and benefit analysis section where there are benefits associated with all measures (paragraphs 141-146). By their nature, these benefits do not imply that the measures would be financially cost-neutral for the departments.
26. All monetised costs have been included in 2015/16 prices and have been discounted according to the latest GDP deflator over a 10 year appraisal period from 2018/19 to 2027/28. Unit costs have been provided by each CJS agency and details on these costs are provided in the relevant sections. Optimism Bias of 15 per cent has been applied to all estimated costs and savings. Note that underlying volume and unit costs figures presented below do not have Optimism Bias applied. Instead, Optimism Bias is applied to estimated summary costs.
27. While presented as a single option, each of the six measures outlined above have been modelled separately, and presented as such in the cost-benefit analysis.
28. The main identified drivers of estimated costs to the CJS associated with measures in the Bill are prison place impacts of measures (c) to (e), legal aid payments of measures (c) and (e) and HMCTS resource costs of measures (c) and (e)
29. Measures (c), (d) and (f) present a range of estimates by way of a sensitivity analysis, recognising that there are areas where assumptions are uncertain. The main drivers of impacts are outlined above and further detailed analysis will be conducted following consultation.
30. These estimates depend on a number of modelling assumptions and cannot be regarded as firm predictions. For further detail regarding the assumptions used in analysis, and associated risks, refer to the 'Risks and assumptions' section which includes a breakdown by measure.

(a) Address lack of a consistent definition of domestic abuse which recognises that domestic abuse can extend beyond violence into other forms of control;

Costs of Measure (a)

Monetised costs

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

Non-monetised costs

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

Benefits of Measure (a)

Monetised benefits

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

Non-monetised benefits

35. Placing a definition of domestic abuse into statute would send a clear message about the seriousness of these offences in order to make a clear statement of their unacceptability within our society.
36. Furthermore, we are aiming to promote a culture change around domestic abuse by explicitly including non-violent domestic abuse within the definition. This is aimed to help police and other agencies understand the true nature of relevant domestic abuse flagged offences.

Net quantifiable impacts of Measure (a)

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

(b) Create the role of Domestic Abuse Commissioner;

Costs of Measure (b)

Monetised costs

38. The budget for the Domestic Abuse Commissioner is likely to be around £1 million per year which would be provided by the Home Office. This would provide for the Commissioner's salary and variable overhead costs, as well as the employment of a team of support staff. It assumes the Commissioner would be supported by up to 15 staff consisting of policy, research and administrative support staff. It would enable the Commissioner and their staff to travel, conduct research and produce reports, as the role requires. There would be no further costs involved in this provision.

Non-monetised costs

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

Benefits of Measure (b)

Monetised benefits

40. The Government have been unable to monetise the benefits of this policy measure.

Non-monetised benefits

41. The Domestic Abuse Commissioner would provide public leadership on domestic abuse issues, raising awareness of what domestic abuse is to increase understanding and reporting. Increased awareness by the victim, and those close to the victim, of the patterns of behaviour associated with domestic abuse is likely to push up reporting rates to the police. This is likely to allow domestic abuse to be reported earlier allowing the police to intervene and prevent the abuse from escalating⁶.
42. A Domestic Abuse Commissioner would also be able to challenge public agencies to improve their response to domestic abuse and promote channels of support to victims of domestic abuse⁷. This should result in better local and national response to domestic abuse so intervening early to reduce escalation of abuse, increasing reporting and providing better support to victims.
43. The Domestic Abuse Commissioner would also be able to work with other Commissioners for Victims (that is, The Victims Commissioner, Anti-Slavery Commissioner) to champion the needs of victims.

Net quantifiable impacts of Measure (b)

44. The estimated quantified net impact to of this measure, assessed in isolation, is a £1 million cost per year. Over a 10 year appraisal period from 2018/19, the estimated Net Present Cost (NPC) is £8 million (PV).

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

45. The estimated impacts of measure C fall into two broad categories: impacts associated with process change and those associated with scope widening:
- Process change⁸ refers to the existing elements of the protective order framework that measure C proposes to change for the baseline volume of orders granted (for example, greater use of positive requirements and criminalisation of breach). Modelling assumes 32,300 DAPOs made in a civil context⁹ and 20,700 DAPOs made in the criminal court on conviction of an offence¹⁰.
 - Scope widening refers to the start to end impacts of a given percentage increase in the annual volume of protective order applications (from application stage through to breach, if applicable).
46. Process change impacts can be attributed to the following three changes to the protective order process, as included in the measure:
- i. Extending the duration of police led DAPOs from their current maximum duration of 28 days (with the length of each DAPO remaining discretionary).

⁶ Currently victims of domestic abuse are unlikely to report the abuse in its early stages. A report from SafeLives suggests victims of domestic abuse have to wait for between 2.5 and 3 years on average before getting effective help and that victims report abuse to the police between 2 and 3 times on average in the year before getting effective help <http://www.safelives.org.uk/sites/default/files/resources/Getting%20it%20right%20first%20time%20-%20complete%20report.pdf> (pg. 13).

⁷ For example, we know that those victims who have access to the support of an Independent Domestic Violence Adviser experience improved feelings of wellbeing and safety <http://www.communitycare.co.uk/2010/01/21/the-role-of-independent-domestic-violence-adviser-services/>

⁸ Process change does not refer to implementation costs (for example, training and IT) incurred to enable the above mentioned changes to protective order processes to take place.

⁹ Based on the volumes of DVPOs, non-molestation orders, occupation orders and restraining orders granted on acquittal as of year ending June 2016.

¹⁰ Based on the volumes of restraining orders granted on conviction as of year ending June 2016.

Domestic Abuse Bill consultation IA

- ii. Expanding the powers of judges to attach conditions to protective orders (such as positive requirements and Electronic Monitoring (EM)).
 - iii. Criminalising breach of DAPOs.
47. Of the changes outlined above, criminalisation of breach (iii) accounts for the largest proportion of estimated impacts associated with process change.
48. Protective order applications could increase through the broadening of the application routes by allowing organisations to apply on behalf of victims¹¹. Due to uncertainties about the impact of this measure, an increase in application volumes of between 5 to 10 per cent has been assumed. Estimates below present a range of impacts based on this assumption.
49. Modelling of scope widening includes estimated impacts for the following activities relating to protective orders: application, court hearing, conditions/monitoring and breach. The summary of monetised impacts from scope widening are presented from paragraphs 63 to 76¹².

Costs of Measure (c)

Monetised costs

Process change

50. Where possible, the monetised costs of each process change listed in paragraph 46 are outlined below.
- i. Extending the duration of police led DAPOs from their current maximum duration of 28 days – Impact has not been quantified. Further detail is included in the ‘non monetised costs’ section.
 - ii. Expanding the powers of judges to attach conditions to protective orders (such as positive requirements and EM) – Costs to the CJS of funding the additional provision of positive requirements as protective order conditions are covered below. Costs associated with the increased use of EM as a DAPO condition have not been monetised. This is explained under ‘non monetised costs’.

Positive requirements

51. Modelling has assumed a 30 percentage point increase¹³ in the proportion of DAPOs requiring a positive requirement (that is, participation in a perpetrator programme) as a condition due to the process change. Applying this assumption to the relevant sub set of baseline protective order volumes (outlined in paragraph 45) suggests approximately 14,500 DAPOs could have a positive requirement.
52. These positive requirements are assumed to be funded by the police and others (such as local authorities, Police and Crime Commissioners (PCCs) and perpetrators themselves). An example of a perpetrator programme is a short awareness raising programme of workshops such as the Project CARA scheme (as trialled by Hampshire Constabulary¹⁴). Estimated agency impacts associated with provision of additional programmes are as below:

¹¹ Voluntary of statutory agencies could apply for a protective order on behalf of the victim, depending on how support provision is managed in the local area.

¹² Modelling of scope widening impacts includes the process changes (for example, increased use of conditions and criminalisation of breach) that have been costed for the baseline volume of orders, to reflect the new processes that would occur for all new applications and orders granted.

¹³ Due to unavailable data on the number of orders with a positive requirement as a condition, modelling has assumed a baseline of zero (that is, no orders currently have positive requirements attached as a condition).

¹⁴ Details of Project CARA and analysis of the randomised controlled trial were published in the Cambridge Journal of Evidence Based Policy: <https://link.springer.com/content/pdf/10.1007%2Fs41887-017-0007-x.pdf>

Domestic Abuse Bill consultation IA

- Police: £70,000 per year (assuming that 4% of low-cost programmes are funded by the police¹⁵).
- Other: £1.6 million per year (assuming that 96% of low-cost programmes are funded by the other agencies and individuals). Without a better understanding of the funding split of these perpetrator programmes, analysis has grouped together these impacts and allocated them to 'Other groups'.

iii. *Criminalising breach of DAPOs*

53. Criminalisation of breach could impact CJS agencies through additional breach proceedings in the criminal courts (impacting HMCTS and the LAA) and the subsequent disposal of convicted defendants to custodial or community supervision (impacting HMPPS). Estimated agency impacts are summarised below in paragraph 62.
54. Based on current breach rates we estimate there could be approximately 1,400 domestic abuse related protective orders¹⁶ that are breached, where the breach is currently not a criminal offence. There are two domestic abuse related protective orders in scope for this process change whereby breach is not currently a criminal offence: the DVPO and occupation order (without power of arrest). The assumed breach rates for these orders is 28 per cent¹⁷. Assuming all of these breaches would, following implementation of the DAPO, instead require a hearing in the criminal courts, there could be an estimated 1,400 additional hearings in the criminal courts. The location of hearings, between the magistrates' and Crown, is based on the split for proxy offences (for example, breach of a non-molestation order). Data on location split is not available at the offence level, so the split of the offence category for which these proxy offences fall under, which is 'public order offences', is used (93% in the magistrates' and 7% in the Crown)¹⁸.
55. All criminal proceedings would be subject to pre-charge advice, which is provided by the CPS. The national average consultation rate of 1.27 consultations per defendant has been applied to the anticipated volumes. In addition, the CPS provide representation to support the prosecution in court, applying contest rates to the estimated additional 1,400 hearings in the criminal courts. Contest rates represent the proportion of proceedings where the CPS are involved and a guilty plea is not made, or the plea outcome is mixed. CPS modelling assumes that approximately 14 per cent of magistrates' courts and 19 per cent of Crown Court proceedings are contested. These contest rates are provided by the CPS and are based on the principal offence category and mode of trial (for example, triable either way or indictable only) most appropriate to the breach of protective order offence. The CPS estimated costs based on their National Resource Model for each type of proceeding (based on unit costs for guilty plea and contested proceedings in the magistrates' courts and Crown Court).
56. Criminalisation of breach would have a potential impact on the LAA in the form of criminal representation at additional breach proceedings progressing through the criminal courts. Modelling assumes that 50 per cent of defendants in the magistrates' courts and 93 per cent¹⁹ of defendants in the Crown Court would receive criminal legal aid representation.

¹⁵ Analysis provided by Safe Lives to the Home Office on commissioning of domestic abuse services, in general, has informed this assumption. More information is needed to better understand the funding split and estimate which organisations could bear the impact of an increase in perpetrator programmes attended.

¹⁶ Includes baseline volumes of DVPOs and occupation orders (without a Power of Arrest), for which breach is not currently a criminal offence. These are domestic abuse related protective orders which are in scope for this process change.

¹⁷ Data provided to the Home Office by Her Majesty's Inspectorate of the Constabulary, Fire and Rescue Services for year ending June 2016 showed a breach rate of 28 per cent. Published data for the same time period shows the breach rate of non-molestation orders to be 28 per cent also. In the absence of breach data on occupation orders, the breach rate of non-molestation orders has been assumed.

¹⁸ Based on the latest 'prosecutions and convictions tool' in published CJS statistics.

¹⁹ The latest quarterly Criminal Court statistics show that 93 per cent of defendants in the Crown Court are represented. Legal aid impacts would, therefore, only apply to this proportion of defendants. Within this group, there is an unknown proportion of defendants that are represented privately. Modelling has assumed close to 100 per cent eligibility for those represented defendants as a working assumption, and reflecting the fact that all defendants, even if privately represented, will need to apply for legal aid if they wish to seek reimbursement from central funds for private representation. Latest published statistics:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/623096/ccsq-bulletin-jan-mar-2017.pdf

57. If breaches of DAPOs lead to a custodial or community sentence, where this was not previously the given disposal, there could be an additional cost to HMPPS of supervising these offenders. Applying the conviction rate of breached non-molestation orders, as a proxy offence, to the estimated 1,400 breached protective orders results in an additional estimated 1,000 convictions²⁰. Of those convicted, modelling assumes 17 per cent receive custodial sentences, including supervision on licence, 42 per cent receive community or suspended sentences with the remaining receiving other disposals (for example, fine or conditional discharge).
58. *Custodial sentences*: Assuming the disposal distribution of non-molestation orders as a proxy offence, this could result in approximately an additional 200 custodial sentences²¹. The Average Custodial Sentence Length (ACSL) for the proxy offence is approximately four months²². Assuming that each offender receiving a custodial sentence spends on average two months in custody (based on spending half of the four month sentence in custody and the rest on community supervision), there would be an estimated impact to HMPPS of approximately 30 additional FTE prison places per year. At an average yearly cost of £24,200 per place, this would equate to around £0.8 million per year²³.
59. *Probation supervision on licence*: Depending on the offender's sentence length, half of their custodial sentence would be spent under community supervision. If the sentence length is under two years, then an offender would receive community supervision for a 12 month period as a minimum. Therefore, as the ACSL of the proxy offence (breach of a non-molestation order) is 4 months, there would be an estimated increase in the number of offenders receiving 12 month supervision. The total estimated impact to HMPPS associated with the additional 200 offenders receiving supervision on licence, after time in custody, is £0.5 million (including pre assessments conducted by the National Probation Service (NPS)) and management of offenders by both NPS and Community Rehabilitation Companies (CRCs)²⁴.
60. *Community sentences*: Using the proxy offence (breach of a non-molestation order), criminalisation of breach could result in an additional 500 community and suspended sentence orders, requiring offender management supervision by the NPS and CRCs. The total estimated impact to HMPPS associated with this increase in offenders receiving community and suspended sentence order supervision is £2.4 million (including pre assessments conducted by the NPS and management of offenders by both NPS and CRCs²⁵).
61. To summarise, applying the disposal distribution of the proxy offence results in an estimated 200 custodial sentences, 500 community/suspended order sentences and a remaining 300 sentences which are spread across disposals such as compensation, fines and 'total otherwise dealt with', which do not have a downstream cost for the CJS.
62. The estimated agency impacts of criminalising breach are summarised as follows:

²⁰ Assuming that 74 per cent of prosecutions for public order offences reach a conviction, according to the latest published CJS statistics: <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2016>

²¹ The "do nothing" disposal distribution for those who currently breach a DVPO or an occupation order would be the disposal outcomes for 'civil contempt of court'. Sentencing outcomes are not available in published or internal MoJ statistics for this group of offenders. The nearest offence, therefore, to capture the 'current' sentencing distributions for this group of perpetrators is: 195 Magistrates Courts Act 1980 (except S.106). This looked to be the closest offence to 'Magistrates Courts Act 1980 (section 63)'. The majority of those sentenced in the 'current' distribution receive a 'total otherwise dealt with' disposal. The impacts associated with using the proxy offence, therefore, show a considerably large volume shift of offenders from one disposal to others.

²² Based on the published December 2016 'criminal justice statistics outcomes by offence tool'.

²³ Based on published costs of annual prisoner places:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/563326/costs-per-place-cost-per-prisoner-2015-16.pdf

²⁴ For offenders **on licence**: HMPPS outturn data for 2015/16 has informed the assumption that 19 per cent of offenders on licence for 12 months are managed by the NPS and 81 per cent are managed by the CRCs.

²⁵ For offenders **receiving supervision as part of a community or suspended sentence**: HMPPS outturn data for 2015/16 has informed the assumption that 10 per cent of offenders are supervised by the NPS and 90 per cent by the CRCs.

Domestic Abuse Bill consultation IA

- HMCTS (crime): £0.9 million per year associated with 1,400 additional breach proceedings.²⁶
- CPS: £0.3 million per year²⁷ associated with the pre-charge advice and contest rates for an additional 1,400 breach proceedings.
- LAA (crime): £0.7 million per year (applying the relevant internal unit costs²⁸ to an estimated 740 additional breach proceedings with LAA criminal representation)
- HMPPS: £3.7 million per year (including 30 additional prison places, pre-assessments by the NPS and supervision of 700 offenders by the NPS and CRCs)

Table 1: Summary of total estimated monetised costs associated with all process change impacts, by CJS agency (£m, 2015/16 prices)

CJS agency	Estimated economic cost from process change
Police	0.0
CPS	0.3
HMCTS	0.9
LAA	0.7
HMPPS	3.7
Other	1.6
Total	7.2

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

Scope widening

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

Application

64. There would be additional agency costs associated with processing and supporting applicants for an additional 5 to 10 per cent estimated increase in applications. It is estimated that the widening of application routes could increase the volume of DAPO applications as agencies could apply on a victim's behalf. Without data to inform an actual percentage increase, analysis illustrates the estimated impacts of the assumed increase. These impacts are summarised below in paragraph 69.
65. Police: a 5 to 10 per cent increase in application volumes per year could require additional police time in processing more DAPNs and subsequently, if the victim requires longer term protection, DAPOs.

²⁶ Applying internal unit costs for 'public order offence' trials in the magistrates' and Crown Court respectively.

²⁷ Cost estimates provided by the CPS are based on the CPS National Resource Model (NRM) which is used to determine a unit cost figure for guilty plea and contested proceedings in the magistrates' and Crown Court. Unit costs represent CPS activity and are based on basic salary costs, excluding overheads and other corporate services. Costs are indicative only and do not necessarily represent the actual cost of each defendant outcome. There can be considerable variations in cost (both between and within offence types) depending on the characteristics of each case.

²⁸ Unit costs for magistrates' representation have been provided for conviction or acquittal outcomes. Defendants in the magistrates' are split according to the assumption that 74 per cent of public order offences reach a conviction. Therefore, of the 50 per cent of defendants receiving representation in the magistrates' courts, the conviction unit cost is applied to 74 per cent and the acquittal unit cost is applied to the remaining 26 per cent.

Domestic Abuse Bill consultation IA

66. HMCTS: Currently, protective orders are applied for and granted in various HMCTS jurisdictions. The protective orders measure should not change this as it enables the DAPO to be processed across all jurisdictions. Therefore, the modelling has broken down the estimated impacts of the additional protective orders by jurisdiction using the proportion of current orders heard in each jurisdiction²⁹).
67. The estimated increase in DAPO applications to a civil court³⁰ (1,300 - 2,700) has been apportioned to each of the current protective orders based on their contribution to the total baseline volume³¹. HMCTS Admin unit costs (excluding estates and overheads) have been applied, to reflect the resource time required for this activity.
68. LAA: Unlike the HMCTS impacts described above, LAA impacts have not been modelled for the application stage because applications are either police led (assuming there is no provision of LAA funding to the police) or the application support cost (that is, legal help) cannot be separated from the overall cost of civil representation at a court hearing. The unit cost of civil representation used in the 'Court hearing' section includes some element of legal help, so this impact is captured later in the IA.
69. Estimated agency impacts associated with a 5 to 10 per cent increase in applications are as follows:
- Police: £0.4 to £0.8 million per year (applying internal staff resource unit costs, as informed by the DVPO pilot)
 - HMCTS: £0.2 to £0.5 million per year (including £0.1 to £0.3 million and £0.1 to £0.2 million costs to the civil³² and criminal³³ jurisdictions respectively. Unit costs of administration resource time have been applied³⁴.)

Court hearing

70. Once the protective order has been received and administered by the courts, there would be agency impacts associated with processing the order through a hearing through the relevant jurisdiction.
71. LAA: modelling includes costs to the LAA associated with civil representation for victims (the applicants) and criminal representation for defendants (the perpetrators). Assuming 10 per cent of defendants currently receive legal aid representation in police led DVPO applications³⁵, the estimated impact of criminal representation to the LAA associated with approximately 20 to 40 additional defendants is estimated to be <£0.1 million per year.
72. Typically, victims make an application to the family court for a domestic abuse related protective order (for example, a non-molestation or occupation order). Modelling assumes that 50 per cent of applicants receive civil representation³⁶ (including assistance with the application before the court hearing). This is because some applications are not expected to have a hearing, and therefore representation would not be required. Modelling considers the estimated impact to the LAA of civil

²⁹ Currently, DVPOs are processed in the magistrates' courts whilst non-molestation and occupation orders are processed in the family courts.

³⁰ Criminal DAPOs (made in the criminal court on conviction of an offence) are assumed to work similarly to the current restraining order, where a decision is made regarding granting a protective order at the sentencing stage of criminal proceedings for a separate offence. There is consequently no application cost in the modelling for criminal DAPOs. There is no data on the time taken to make a decision on granting a restraining order, so it is therefore not possible to monetise the time taken on 'application' type activities.

³¹ In mapping the 2015/16 baseline order volumes to the proposed DAPO framework (non-criminal and criminal), the non-criminal DAPO (made in a civil court) volumes are made up of: non-molestation orders (74%), DVPOs (12%), occupation orders (7%) and restraining orders upon acquittal (6%). Percentages may not sum 100 per cent due to rounding.

³² Costs associated with processing applications made by the victim to the family courts (as per the current occupation and non-molestation orders).

³³ Costs associated with processing applications made by the police to the magistrates' courts (as per the current DVPO).

³⁴ Unit costs represent staff time only, excluding estates and overhead costs.

³⁵ Based on MoJ analysis of DVPO pilot data.

³⁶ MoJ analysis has found that approximately 50 per cent of private family law applications are made ex-parte to the family court (i.e. where the respondent is absent). Modelling has assumed an upper bound of 50 per cent representation for applicants, covering all of those applications made when the applicant is present in court.

Domestic Abuse Bill consultation IA

representation in approximately 600 to 1,100 additional applications (associated with an additional 5-10% in applications respectively).

73. Estimated agency impacts associated with a 5 to 10 per cent increase in court hearings are as follows:

- HMCTS: £0.2 to £0.5 million per year (including £0.2 to £0.3m and £0 to £0.1m³⁷ costs to the civil and criminal jurisdictions respectively. Unit costs of judicial resource time have been applied³⁸.)
- LAA: £1.9 to £3.9 million per year (mostly associated with civil representation³⁹ and <£0.1 million in criminal representation costs⁴⁰).

Conditions

74. Applying the same assumptions as per paragraphs 51 and 52 relating to the attachment of conditions to protective orders (for example, 30% of DAPOs to have a positive requirement condition), the estimated agency impacts associated with a 5 to 10 per cent increase in orders granted are summarised below.

75. Based on the estimated annual increase in numbers of DAPOs granted, there could be an estimated additional 700 to 1,500 orders per year with positive requirements attached as a condition. The impacts associated with the increased application of positive requirements are:

- Police: £3,000 to £7,000 per year (funding 4% of an additional perpetrator programmes)
- Others: £0.1 to £0.2 million per year (funding 96% of additional perpetrator programmes)

Breach

76. Modelling the estimated impacts of additional breaches associated with a 5 to 10 per cent increase in protective orders granted follows a similar approach, and uses the same assumptions as those outlined in paragraphs 53 - 62. Estimated agency impacts associated with additional instances of breach are outlined below:

- HMCTS (crime): £0.9 to £1.7 million per year (assuming the average breach rates of the current orders that would fall under the DAPO made in a civil context (27%) and the restraining order upon conviction, translating into the DAPO made in the criminal court upon conviction of an offence (72%), there could be an estimated additional 1,300 to 2,400 breach proceedings progressing through the criminal courts annually)
- CPS: £0.3 to £0.6 million per year (assuming the pre-charge advice consultation and contest rates described above, as provided by the CPS, to the estimated additional 1,300 to 2,400 breach proceedings)
- LAA (crime): £0.7 to £1.2 million per year (assuming criminal representation for 50% and 93% of defendants tried in the magistrates' and Crown Court respectively for an estimated additional 1,300 to 2,400 breach proceedings, most of which are tried in the magistrates' courts)
- HMPPS: £3.2 to £6 million per year⁴¹ (including an additional 40 to 80 prison places, supervision of an additional 260-490 offenders on licence and an additional 400 to 700 offenders receiving

³⁷ Figures may not sum due to rounding.

³⁸ Unit costs represent staff time only, excluding estates and overhead costs.

³⁹ Applying the average cost to the LAA of a Domestic Violence certificate as a proxy for the costs associated civil representation at this type of hearing in the family court (total civil representation costs met by the LAA/completed civil certificates). Source – Legal Aid statistics January to March 2017: <https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2017>

⁴⁰ Unit costs of criminal LAA representation were calculated by the MoJ using LAA spend results from the DVPO pilot.

⁴¹ Custodial impacts applied the unit cost of a prisoner place from a NOMS published report (2015/16) and community supervision costs for the NPS and CRCs were provided internally, including pre-assessment costs. Unit costs used for CRC activities exclude service credits and Payment by Results payments/penalties.

Domestic Abuse Bill consultation IA

community and suspended sentences). Costs include CRC⁴² payments.

Non-monetised costs

Process change & Scope Widening

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

i. Extending the duration of police led DAPOs from their current maximum duration of 28 days

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

ii. Expanding the powers of judges to attach conditions to protective orders (such as positive requirements and EM)

79. Police: If a greater volume of protective orders have EM attached as a condition, it is possible that there could be increased costs for the police associated with responding to alerts generated by the tags. Without data to inform the likelihood of an alert being raised, or the cost associated with responding to an alert, this potential impact has not been monetised.

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

81. The Radio Frequency (RF) tags, currently provided to monitor compliance with a curfew, are not likely to be particularly attractive in a domestic abuse context especially where the victim and perpetrator live together. For this reason, the express power is not anticipated to increase costs to HMPPS associated with curfew tagging. If tags are to be used in a DAPO for the primary purpose of preventing abuse, courts might instead prefer to opt for a GPS tag to monitor the location of a perpetrator, for example to monitor compliance with an exclusion zone when the perpetrator has moved out of the family home.

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

iii. Criminalising breach of DAPOs

83. Police: There may be some familiarisation costs for the police associated with the criminalisation of DAPO breaches. Given police knowledge of the DVPO process already, and the lack of any studies to estimate time spent in processing an application for proceedings (once an instance of breach occurs) these impacts have not been monetised.

Scope widening only

84. LAA: An element of the process changes outlined in measure C would be the widening of application routes. This would enable agencies to apply for a protective order on the victim's behalf. It is yet to be decided which agencies could be eligible to apply, however it is likely that there would be some

⁴² Assuming the same split of NPS/CRC managed offenders as process change analysis: 10 per cent of offenders on licence managed by the CRCs and 19 per cent of offenders on community/suspended sentence orders (under 12 months) managed by the CRCs. The remainder offenders are supervised by the NPS.

Domestic Abuse Bill consultation IA

costs to the LAA of accrediting certain organisations, ensuring their eligibility to apply on a victim's behalf and therefore secure LAA funding.

85. LAA: The widening of application routes could have an impact on the LAA if the granting of additional protective orders act as proof that an applicant has been affected by domestic abuse and is, therefore eligible for a LAA DV funding certificate. This certificate guarantees legal aid funding for applicants in future proceedings, and could, therefore increase costs to the LAA. The magnitude of these costs is not known, as protective injunctions are one of several means to proving eligibility for guaranteed funding.
86. Cafcass and Cafcass Cymru: There could be additional resource costs for these practitioners associated with applications being made for DAPOs. This would potentially concern advising the court on and identifying when to make such an application and also work around the resulting order, including support for how such orders are going to be put into effect and what should happen in response to an alleged breach.

Benefits of Measure (c)

Monetised benefits

Process change

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

Scope widening

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

Non-monetised benefits

Process change

89. Victims: The introduction of DAPOs would facilitate a more consistent response to domestic abuse from the CJS by offering a single and consistent route to deal with offences. This may result in earlier intervention by CJS agencies, which may prevent the escalation of abuse and reduce reoffending.
90. Victims (confidence in the CJS): The introduction of a power to attach EM and perpetrator programmes as a positive requirement to protective orders could improve the victim's confidence in the CJS.
91. Victims (reduction in prevalence of domestic abuse): The power described above is aimed at changing offender behaviour to reduce the prevalence of domestic abuse. There is some evidence that domestic violence perpetrator programmes in England and Wales have led to a reduction in violence. An evaluation of two interventions delivered by the NPS (the Integrated Domestic Abuse Programme and the Community Domestic Violence Programme) indicated that both were effective in reducing domestic violence and any reoffending in the two-year follow up period with small but significant effects⁴³. Any reductions in reoffending could reduce costs to victims and society.
92. Those living with, or close to, victims (specifically children witnessing domestic abuse): Early intervention and programmes to change offender behaviour could potentially reduce the likelihood of children witnessing domestic abuse which may go on to reduce the likelihood of them being victims or perpetrators. This may reduce the costs to victims and society from domestic abuse.
93. Victims: It is possible that the criminalisation of breach could have a deterrent effect and reduce the incentive for the perpetrator to breach the order. However, without sufficient data or studies to date, there is little evidence to explore a breach deterrent effect.
94. Police: Possible benefits to the police may come from the reduced number of breach proceedings they bring forward upon criminalisation of breach. This potential resource saving for the police may offset the increased cost borne on the CPS, as described in paragraph 55.

43 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449008/outcome-evaluation-idap-cdvp.pdf

Domestic Abuse Bill consultation IA

Scope widening

95. Victims: The scope widening aspect of the measure could benefit victims by taking the onus off the victim to apply to the courts for an order, as agencies could do this on their behalf, thus reducing the time and efforts associated with legal proceedings. As the scope widening is estimated to lead to more orders being granted, this has the potential to support and protect more victims than the 'do nothing' option, thus representing a bigger benefit to victims.

Net quantifiable impacts of Measure (c)

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

Table 2: Summary of annual estimated economic costs to HMCTS, by jurisdiction (£m, 2015/16 prices)

Jurisdiction	Process change	Increase in scope	Total
Criminal	0.9	1.1 - 2.0	2.0 - 2.9
Family		0.4 - 0.8	0.4 - 0.8
Total	0.9	1.5 - 2.7	2.4 to 3.7

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

Table 3: Summary of annual estimated economic costs to the LAA, by type of representation (£m, 2015/16 prices)

Type of representation	Process change	Increase in scope	Total
Civil		1.9 - 3.9	1.9 - 3.9
Criminal	0.7	0.7 - 1.2	1.4 - 2.0
Total	0.7	2.6 - 5.1	3.4 - 5.9

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

Table 4: Summary of annual estimated economic costs to HMPPS, by activity (£m, 2015/16 prices)

HMPPS provision	Process change	Increase in scope	Total
Electronic Monitoring	Non-monetised cost		0.0 - 0.0
Custodial sentences	0.8	1.1 - 2.1	2.0 - 2.9
Probation supervision on licence	0.5	0.3 - 0.7	0.8 - 1.2
Probation supervision in the community	2.4	1.8 - 3.2	4.2 - 5.6
Total	3.7	3.2 - 6.0	7.0 - 9.8

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

Table 5: Summary of estimated annual costs associated with the protective orders measure, by CJS agency (£m, 2015/16 prices)

CJS agency	Estimated economic cost from process change	Estimated economic cost from increase in scope	Total
Police	0.0	0.4 to 0.8	0.4 to 0.8
CPS	0.3	0.3 to 0.6	0.7 to 0.9
HMCTS	0.9	1.5 to 2.7	2.4 to 3.7
LAA	0.7	2.6 to 5.1	3.4 to 5.9
HMPPS	3.7	3.2 to 6.0	7.0 to 9.8
Other	1.6	0.0 to 0.2	1.6 to 1.8
Total	7.2	8 to 15	15 to 23

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

97. The estimated quantified net cost to society of this measure, assessed in isolation, is between £15 and £23 million per year, depending on the assumed increase in protective order applications. In isolation, amending the domestic abuse related protective orders framework, as outlined above, is estimated to have a 10 year NPC from 2018/19 of £130 to £190 million (PV).

(d) Amend statutory aggravating factors in sentencing

98. The potential impact of measure (d) would only materialise to the extent that the domestic abuse aggravating factor is not already considered in sentencing. The effect would be driven by the extent to which offenders receive longer custodial sentences or an uplift in their sentence from a non-custodial to a custodial sentence. For the purpose of this analysis and to present an order of magnitude estimate, only the former of these has been explored.
99. The cost impact from longer custodial sentences would be shared between prison and probation services. Half of the increase in sentence length would be spent in prison, with the remainder spent on probation. Assuming that sentence lengths increase, probation costs would only increase if an offender's sentence length is above two years, as only then would they spend any additional days on probation. Offenders with sentences remaining below two years would remain on probation for one year, and the associated costs would not change.
100. Due to the limited data available on factors influencing sentencing behaviour, analysis has focussed on impacts associated with an uplift in custodial sentence only. The decision to change a sentence from a community to a custodial disposal is very different to uplifting sentence length within a set range. There is no data to inform how the application of various factors could influence the judiciary to change a sentencing decision from one disposal type to another.
101. Therefore the analysis has focussed on the application of the factor to a change in custodial sentence length. Custodial sentence length changes are likely to have the greatest affect in monetary terms, due to their immediate impact on the number of prison places required. It is anticipated that the measure would mainly affect decisions regarding sentence length, as opposed to choosing between a non-custodial and a custodial sentence, due to the large jump in seriousness between the two sentencing decisions.

Costs of Measure (d)

Monetised costs

102. The assumed baseline volume of domestic abuse offenders receiving an immediate custodial sentence is estimated to be approximately 14,000 per year. Through internal analysis, a sample of

Domestic Abuse Bill consultation IA

domestic abuse flagged cases was obtained from court records. A proportion of immediate custodial sentences is calculated from this sample. Using police recorded crime data on domestic abuse offences (Table A4)⁴⁴, this proportion is then applied to domestic abuse flagged crimes along with an estimated conviction rate of domestic abuse recorded crime of 18 per cent⁴⁵ to estimate the volume of domestic abuse offenders receiving an immediate custodial sentence.

103. The likely impact of this measure would be to increase the length of custodial sentences. Due to data limitations, the number of cases where the aggravating factor would now be considered, when it previously hadn't been, is not known. Therefore, for this initial analysis an illustrative range of uplift in sentence length (5-10%) has been applied to the ACSL of the sample data. This is assumed to capture the effect of sentences that would now include the aggravating factor, when they otherwise would not have had the factor applied. This results in an estimated increase in ACSL of 4 to 7 days, half of which would be spent in custody and the remainder on probation.
104. Multiplying the increase in average days spent in custody by the assumed number of domestic abuse offenders receiving an immediate custodial sentence leads to an estimated additional demand for prison places of approximately 80 to 130.
105. The average cost of an additional prison place per year comes from the published prison place costs by HMPPS⁴⁶. The average cost across all prison types for 2015-16 is approximately £24,200 per year.
106. The total cost of the increase in average length in custody is then calculated by multiplying the prison place impact figure (paragraph 104) by the average yearly cost (paragraph 105) and applying 15 per cent optimism bias. The estimated quantifiable cost to HMPPS of this measure associated with prison place impacts is £2 to £4 million per year.
107. As noted in paragraph 99, half of the increase in sentence length would be spent under supervision on licence by CRCs or the NPS and probation costs would only increase when the length sentence was above two years. From the sample of domestic abuse flagged cases the proportion of immediate custodial sentences of two years or more, after adding the sentence increase, is calculated. This is then applied to the assumed volume of offenders receiving immediate custodial sentences, resulting in an approximate estimated 20 offenders receiving sentences longer than two years after the increase in sentence length is applied.
108. With this low volume of potential affected offenders, and small increase in time on probation, it is assumed that the increase in probation cost would be small and so has not been explicitly costed.

Non-monetised costs

109. As noted in paragraph 100, the cost of going from a non-custodial to a custodial sentence has not been explored in this analysis. This impact is unlikely to change the magnitude of the cost of this measure due to the seriousness of this change in sentencing decision meaning few offenders are likely to be affected.
110. Whilst the judiciary are already familiar with aggravating factors in sentencing, there could be some minor familiarisation costs associated with revised Sentencing Council guidelines.

⁴⁴<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseinenglandandwalesappendixables>

⁴⁵ Conviction rate has been calculated dividing the number of domestic abuse flagged convictions recorded by the CPS (approximately 75,000) by domestic abuse domestic abuse flagged police recorded crime (approximately 420,000). Domestic abuse conviction data is taken from the CPS's Violence Against Women and Girls 2016-17 Data Report: <http://www.cps.gov.uk/publications/equality/vaw/>

⁴⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/563326/costs-per-place-cost-per-prisoner-2015-16.pdf

Domestic Abuse Bill consultation IA

111. Though the measure may not have a direct impact on custody length where the domestic abuse aggravating factor is already considered, it may have an indirect impact through behavioural change leading to increased sentences being passed.

Benefits of Measure (d)

Monetised benefits

112. It has not been possible to identify monetised benefits arising from this measure.

Non-monetised benefits

113. No identified benefits beyond those presented in paragraphs 141 to 146.

Net quantifiable impacts of Measure (d)

114. In isolation, amending the statutory aggravating factors, as outlined above, is estimated to have a 10 year NPC from 2018/19 of £18 to £32 million (PV).

(e) Extend extraterritorial jurisdiction

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

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

117. A list of 11 offences, over which the Government believes it is necessary to take ETJ has been used in this analysis. The relevant offences are: (1) putting people in fear of violence; (2) controlling or coercive behaviour in an intimate or family relationship; (3) stalking involving fear of violence or serious alarm or distress; (4) actual bodily harm; (5) grievous bodily harm, (6) grievous bodily harm with intent; (7) procuring abortion; (8) rape, (9) assault by penetration; (10) sexual assault; and (11) causing a person to engage in sexual activity without consent.

118. Offences (1) and (7) have not been included in the analysis as they are not present in the data supplied by Prisoners Abroad⁴⁷. This should not impact the estimates as the lack of presence in the data suggests that few people are proceeded against for these offences abroad.

Costs of Measure (e)

Monetised costs

119. Volumes are uncertain as ETJ cases are not recorded separately in the Criminal Justice Statistics, and so it is unclear how many cases the UK currently deals with. Instead, two data sets are used to estimate the volume of additional ETJ cases. One from the Foreign & Commonwealth Office's (FCO) "Helping British Nationals Abroad" publication⁴⁸ and a second supplied by the charity Prisoners Abroad (PA). Both have their limitations as set out in the Risks and Assumptions' section below.

⁴⁷ <https://www.prisonersabroad.org.uk/>

⁴⁸ <https://www.gov.uk/government/statistical-data-sets/helping-british-nationals-abroad-2016>

Domestic Abuse Bill consultation IA

120. According to the FCO's data, in 2015/16 there were approximately 4,500 non-drug related arrests/detentions of UK nationals where consular assistance was requested. To estimate the number of ETJ cases, several factors are applied to this number:
- Using PA's data, the proportion of offences, being sought under this extension of ETJ, as a proportion of all non-drug related cases abroad.
 - The likely proportion involving nationals from England and Wales⁴⁹.
 - The proportion of arrests which lead to court proceedings⁵⁰.
121. Approximately 200 additional cases per year are estimated where ETJ could be exercised. In practice, it is likely that only serious offences committed abroad by UK nationals or residents that cannot or should not be prosecuted where they occurred would be prosecuted in the UK, and so the actual volume is likely to be lower.
122. The number of cases within each offence type is then multiplied by an estimated cost for that offence category. Note that these costs are for an average domestic case, and so do not include potential cost increases due to the offences occurring abroad.
123. To estimate the impact on the CPS, a contest rate is applied to the estimated number of proceedings for each offence type. CPS modelling assumes that approximately 14 per cent of magistrates' courts and 19 per cent of Crown Court proceedings are contested. The CPS estimated costs based on their National Resource Model for each type of proceeding (based on unit costs for guilty plea and contested proceedings in the magistrates' courts and Crown Court).
124. The additional cases are estimated to cost a total of £6.5 million per year. The actual cost may be lower as only the most serious cases are likely to be prosecuted in the UK, or higher if the average cost of these ETJ cases is greater than the average cost of domestic cases. The annual cost by agency is estimated⁵¹ at:
- HMCTS: £0.7 million.
 - CPS: £0.2 million.
 - LAA: £1.4 million.
 - HMPPS: £4.1 million, of which £3.8 million are prison costs and £0.3 million are probation costs.

Non-monetised costs

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

⁴⁹<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality>

⁵⁰ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesbulletintables>

⁵¹ These are rounded numbers and so sums may not add to the total presented.

Benefits of Measure (e)

Monetised benefits

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

Non-monetised benefits

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

Net quantifiable impacts of Measure (e)

130. In isolation, extending ETJ over relevant offences, as outlined above, is estimated to have a 10 year NPC from 2018/19 of £56 million (PV).

(f) Domestic Violence Disclosure Scheme

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

Costs of Measure (f)

Monetised costs

132. A small cost is expected as a result of additional demands on police time in responding to information requests and providing information where it is considered appropriate to do so.

133. Recent data on the use of the DVDS is published by Her Majesty's Inspectorate of the Constabulary, Fire and Rescue Services (HMICFRS)⁵². Data on the cost per request were published for Wiltshire police force in 2012/13 following the pilot assessment of the policy⁵³. These estimates cover the resource costs to the police of providing information relating to an individual where there is a concern that the individual may be violent towards their partner

134. The cost estimates have been assumed to be representative of all forces and were uplifted by police pay increases to give 2015/16 estimates. The unit costs below are used in the IA:

- £711 for each use of the 'right to ask'⁵⁴ (where the police disclose information via a request from a member of the public)
- £835 for each use of the 'right to know' (where a proactive decision is made to consider disclosing information in order to protect a potential victim)

135. HMICFRS data shows that across all forces in England and Wales during the year to the end of June 2016 the 'right to ask' was used 3,078 times and the 'right to know' was used 3,236 times. Consistent with the assumption made in the protective orders section, we assumed the police leads to an increase in volumes between 5 and 10 per cent.

136. Including optimism bias of 15 per cent, multiplying the change in use by the cost to police gives an additional annual cost between £0.3 and £0.6 million.

⁵² <https://www.justiceinspectors.gov.uk/hmicfrs/data/peel-assessments/> - Effectiveness 2016 data

⁵³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260894/DVDS_assessment_report.pdf - Page 16.

⁵⁴ <http://www.gmp.police.uk/content/section.html?readform&s=903BB34BE34EDA3180257A71002DE9EE> – Explanation of 'right to ask' and 'right to know'

Domestic Abuse Bill consultation IA

Non-monetised costs

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

Benefits of Measure (f)

Monetised benefits

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

Non-monetised benefits

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

Net quantifiable impacts of Measure (f)

140. The estimated present value cost (NPC) of this policy £2.4 to 4.8 million over 10 years, and it is anticipated that this cost falls entirely to the police.

Measures (a) – (f): Overall non-monetised benefits

141. The critical aim of the set of measures presented in this IA is to reduce the prevalence of domestic abuse, and therefore the harm caused to society. Without available evidence on the impacts of these interventions (for instance impact evaluations on the effects of particular programmes or orders), it has not been possible to accurately monetise benefits associated with the above measures.

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

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

Evidence relating to the potential harm and cost of domestic abuse

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

- When abuse escalates, victims are more likely to require support from public services. Health and support services are particularly likely to experience demand for their services from victims. SafeLives report that between 10 per cent and 25 per cent of domestic abuse victims went to A&E in the year before they received effective help. As a result of the harm to victims and /or the control or coercion they are subject to they may be unable to work or be less productive at work potentially leading to a cost to employers and the potential for support from the state
- There is a body of literature which suggests children of victims of domestic abuse suffer from the life-long impact of the abuse leading them to be more likely to suffer from or perpetrate abuse in the future. Recent analysis of the Crime Survey for England and Wales showed that those who had witnessed domestic violence or abuse as a child (before aged 16) were more likely (than

Domestic Abuse Bill consultation IA

those who had not) to experience domestic abuse in the previous year as an adult (21% vs 5%) and to experience sexual assault in the last year as an adult (5% vs 2%) (ONS, 2017)⁵⁵.

- In 2009 Sylvia Walby estimated that the overall cost of domestic violence to the victim and society was approximately £16 billion⁵⁶ annually⁵⁷.

Mechanism through which the proposed measures are assumed to reduce harm

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

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

145. Despite having insufficient evidence to monetise the potential benefits we know that in the CSEW for the year ending March 2016, an estimated 2 million adults aged 16 to 59 experienced domestic abuse in the previous year⁵⁸. Given the estimated costs of domestic violence were approximately £16 billion in 2008 (Walby, 2009) it would only take a modest annual reduction in domestic abuse related crime for the £25 to 35 million annual cost of the policy measures to be offset by the potential benefits.

146. To demonstrate this we can use the published unit costs from the costs of crime⁵⁹ estimates uprated to 2015/16 prices. There is not a unit cost equivalent for domestic abuse in the costs of crime. However, there is a unit cost for serious wounding, which is similar to domestic abuse flagged violence with injury offences, although very likely to overestimate the cost per offence. To account for this the uprated unit cost for a serious wounding was halved and applied to police recorded crime data for 2015/16⁶⁰. This showed that the volume of domestic abuse flagged violence with injury crimes reported to the police would have to fall by approximately 1 to 2 per cent per year for the costs of the policy to be offset by the benefits to society from crime reduction. By their nature, these benefits do not imply that the measures would be financially cost-neutral for the departments.

Summary and preferred option

147. The total quantified costs of Option 1 are estimated to be between £25 and £35 million per year in steady state. The estimated economic benefit of the policy is not monetised, as per the explanation above.

148. The analysis above does, however, show that only a minor reduction (1-2% per year) in the impact of domestic abuse would be required in order for the benefits of Option 1 to outweigh the costs.

⁵⁵ Office for National Statistics (2017) *People who were abused as children are more likely to be abused as an adult*. <http://visual.ons.gov.uk/people-who-were-abused-as-children-are-more-likely-to-be-abused-as-an-adult/>

⁵⁶ http://www.lancaster.ac.uk/fass/doc_library/sociology/Cost_of_domestic_violence_update.doc

⁵⁷ This is likely be an underestimate as it does not capture the costs associated with non-violent abuse, such as controlling and coercive behaviour, and uses the main survey from the CSEW rather than the self-completion module.

⁵⁸ Source:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2016#prevalence-of-domestic-abuse-from-the-crime-survey-for-england-and-wales>

⁵⁹ <https://www.gov.uk/government/statistics/unit-costs-of-crime-and-multipliers-revised>

⁶⁰ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendi ngmarch2016>

Table 6: Summary of estimated annual costs by measure and CJS agency (£m, 2015/16 prices)

Agency	Domestic Abuse Bill measure						Total
	(a) Statutory definition	(b) Domestic Abuse Commissioner	(c) Protective orders	(d) Statutory aggravating factor	(e) Extend ETJ	(f) DVDS	
HO/Police	-	1	0.4 to 0.8	-	-	0.3 to 0.6	1.7 to 2.4
HMCTS	-	-	2.4 to 3.7	-	0.7	-	3.1 to 4.4
CPS			0.7 to 1		0.2	-	0.9 to 1.2
LAA	-	-	3.4 to 5.9	-	1.4	-	4.8 to 7.3
HMPPS	-	-	7 to 9.8	2 to 4	4.1	-	13 to 18
Other	-	-	1.6 to 1.8	-	-	-	1.6 to 1.8
Total	0	1	15 to 23	2 to 4	6.4	0.3 to 0.6	25 to 35

HMPPS estimates include CRC payments. 15 per cent Optimism Bias applied. Figures may not sum due to rounding.

F. Risk and Sensitivity analysis

Risks and assumptions

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

Direct costs and benefits to business calculations (following OITO methodology)

151. There are no direct costs or benefits to private sector companies or charities from this policy.

Overarching Risks (including definition)	
Assumption	Risk and Impact
Data availability	Some of the measures analysed in this IA rely heavily on assumptions made in the absence of domestic abuse related data. A domestic abuse flag is not applied consistently throughout MI systems in the CJS, meaning it is difficult to get a thorough and complete understanding of the domestic abuse landscape from arrest through to offender management. In the absence of this data, assumptions have been made where required to inform some of the modelling work.
Definition – scope widening	Without further understanding of the offences to be included in a statutory definition, it is unknown to what extent the change in definition could alter the scope of victims and perpetrators relevant to this Bill. If, for instance, the widening of the definition encompasses many more victims and perpetrators, CJS costs could increase considerably.

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

Measure (c) – Protective Orders	
Assumption	Risk and Impact
Policy Implementation	The estimates provided in this IA are subject to the new domestic abuse protective order framework being used for all domestic abuse offences for which this intervention has been considered appropriate. However, if practitioners such as the Police continue to use the existing framework then the impacts could differ to those presented in this IA.
Increased demand to the CJS	It is possible that the increased demand to the CJS, in terms of more applications for protective orders, could be greater than anticipated in the modelling. If there is an annual increase in applications beyond the assumed 5-10 per cent range, the impact estimates presented in this IA could be an underestimate.
Lack of evidence on current use of perpetrator programmes and EM	The lack of information on the volume of perpetrator programmes attached to domestic abuse related protective orders and application of EM as a condition pose a risk that the analysis may be an under or over estimate, as it has been difficult to establish a baseline, and therefore understand aspects of the ‘do nothing’ approach. Without properly understanding the baseline usage, or the behaviour change anticipated as a result of the measure, the modelling has assumed a zero usage baseline, and therefore the percentages shown in the assumptions relating to take up can be interpreted as percentage point increases. More detail on assumptions for each of these is provided below.
Proportion of existing protective orders that are assumed to be related to domestic abuse (and mapping from ‘current’ to ‘proposed’ framework)	<p>Based on latest available data, modelling has assumed approximately 4,400 DAPNs (replacing the previous DVPN).</p> <p>Modelling assumes 32,300 DAPOs made in a civil context (based on the current volumes of DVPOs, non-molestation orders, occupation orders and restraining orders granted on acquittal).</p> <p>Modelling assumes 20,700 DAPOs made in the criminal court on conviction of an offence (based on the current volumes of restraining orders granted on conviction).</p> <p>Proportion of these orders that are domestic abuse specific – volumes above are based on the following:</p> <ul style="list-style-type: none"> • 100 per cent of DVPOs are domestic abuse specific • 95 per cent of non-molestation and occupation orders are domestic abuse specific • 86 per cent of restraining orders are domestic abuse specific <p>Note: ‘Current’ volumes refer to data for year ending June 2016, except for restraining orders, where data was provided for the calendar year 2015.</p>
Perpetrator programmes as an order condition	Modelling assumes 30 per cent of offenders would have a positive requirement attached to their domestic abuse protective order, if the proportion of perpetrators with a positive requirement attached is higher (lower) than assumed the cost could be higher (lower) than estimated in this IA.
EM as an order condition	Modelling assumes 3 per cent of offenders with a positive requirement have an Electronic Monitoring attachment, if the proportion of perpetrators with an EM is higher (lower) than assumed the cost could be higher (lower) than estimated in this IA.
DAPO breach rate	Assumed breach rates for the new DAPOs are based on the historic breach rates for existing protective orders. If the breach rate is higher (lower) than this the cost could be higher (lower) than estimated in this IA. This impact is driven by the measure to criminalise breach of DAPOs and for some this is currently not the case.

Domestic Abuse Bill consultation IA

Measure (d) – Create a statutory aggravating factor in sentencing	
Assumptions	Risks and Impacts
Uplift in custodial sentences	<p>An assumed 5 per cent increase in the average custodial sentence length of offenders assumed to have received an immediate custodial sentence for a domestic abuse offence has been used for the purpose of illustration in this IA. This assumption and therefore the impact of the measure is heavily reliant on the extent to which sentencing decisions currently already consider domestic abuse as an aggravating factor; if this factor is already considered in most circumstances then the impact of this measure could be minimal, however if it not then putting this factor in statute could result in impacts greater than that proposed in this IA.</p> <p>Additionally, the assumed 5 to 10 per cent uplift has been applied to an overall ACSL. It is possible that the uplift could have a unique impact on different sentences, depending on the proportion of each offence that would receive a custodial sentence.</p>
Uplift in sentence outcome	Current modelling assumes no change in the type of sentence domestic abuse offenders receive; for example offenders do not move between sentence outcomes (for example, non-custodial to custodial). If offenders were to move to more severe sentence outcomes, the estimated impacts of this measure could be higher than presented in this IA.
Conviction rate for domestic abuse offences	Modelling has assumed an 18 per cent conviction rate for domestic abuse flagged recorded crimes. If this rate were to increase, the estimated impacts of the measure could increase also.
Selection bias associated with using sample data	Omitting particular observations from the sample sentencing data could introduce selection bias. To mitigate this risk, no observations were removed. This means, however, that there could be some inconsistency in the reporting of offences (for instance, some regions were found to be flagging domestic abuse offences more consistently).
Applying sample data to national sentencing outcomes	The sentencing distribution assumed for domestic abuse flagged offences is based on a sample of matched domestic abuse flagged offences. Given that the sample is relatively large, and covers various geographic areas, modelling has assumed that the sample is representative of national domestic abuse offence sentencing outcomes (in the absence of available data). If this sentencing distribution is not representative, the impacts presented in this IA could vary.

Measure (e) – Adopt extraterritorial jurisdiction	
Assumptions	Risks and Impacts
Data sources	<p><i>Both</i>: The quality assurance process that the below datasets have been through is unknown. Links to the data sources are provided in footnotes 47 and 48.</p> <p><i>British Behaviour Abroad</i>: Does not present offence-specific data (although likely has greater coverage than the Prisoners Abroad data). It does not distinguish between offenders from different parts of the UK.</p> <p><i>Prisoners Abroad</i>: Relies on self-reporting so is unlikely to be a comprehensive reflection of the extent of offending by British nationals. It does not distinguish between different parts of the UK.</p>
Attrition from arrest to proceeding	It is assumed that attrition from arrest to proceeding for cases identified abroad would be similar to that for domestic cases. If it is in fact different, this would impact on total cost.
Volume estimate	The volume of cases over which ETJ would be exercised is highly uncertain (as explained in the appraisal section). There is insufficient data on the extent of offending in foreign jurisdictions.

Domestic Abuse Bill consultation IA

	There are circumstances where cases could be reported in the UK rather than in a foreign jurisdiction (for example, by a victim's family after returning from a holiday). Again, we do not have any data on how many of these cases exist where ETJ has been exercised.
Data coverage	Prisoner's Abroad and FCO data only cover British nationals detained overseas (with some exceptions). As ETJ would apply to both residents and nationals the data proportions and volume estimates could be different to what is estimated.

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

G. Implementation

152. Provisions for the preferred options outlined in this IA are subject to consultation. Responses to the consultation will be used to inform planning for implementation of any measures brought forward. Further announcements about this will be made in due course.

H. Evaluation

153. The Government will review and monitor measures following implementation.