EXPLANATORY NOTES

Victims and Prisoners Act 2024

Chapter 21

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VICTIMS AND PRISONERS ACT 2024

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Victims and Prisoners Act 2024 which received Royal Assent on 24 May 2024 (c. 21).

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

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These Explanatory Notes relate to the Victims and Prisoners Act 2024 which received Royal Assent on 24 May 2024 (c. 21)

Overview of the Act

1 The Victims and Prisoners Act 2024 contains measures in relation to:

- Victims of criminal conduct
- Victims of major incidents
- The Infected Blood compensation body
- Reforms to the parole system
- Imprisonment for Public Protection licence termination and progression.
- Restrictions on marriage for prisoners who are imprisoned under whole life orders.

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

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

4 Part 3 of the Act establishes the Infected Blood Compensation Authority to pay compensation to victims of the infected blood scandal.

5 Part 4 of the Act implements the reforms set out in the Government's Root and Branch Review of the Parole System to strengthen the parole system by codifying the release test and creating a power to allow the Secretary of State to refer decisions to release the most serious offenders to the High Court. It also contains measures relating to prisoners serving imprisonment for public protection sentences and measures that prohibit prisoners who are imprisoned under whole life orders from being able to marry or forming a civil partnership whilst in prison.

Policy background

Victims of criminal conduct measures

6 In 2019/20, it was estimated that 6.6% of 10-15-year olds and around one in five adults (19.3%) in England and Wales were victims of crime.[1] In December 2021, the Government launched a public consultation "Delivering justice for victims: A consultation on improving victims' experiences of the justice system"[2] to inform development of this law. The Government consulted broadly on how to improve what victims can expect from the criminal justice system and how to improve aspects of victim support services. Its aim was to better understand the experiences of victims and harness expertise from frontline practitioners and experts, to ensure that the Act and accompanying measures improve support for victims throughout the criminal justice system. The consultation ran for eight weeks and received over 600 responses.

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

- placing the overarching principles of the Victims' Code in primary legislation
- placing a duty on relevant bodies to promote awareness of the Victims' Code
- enhancing oversight of delivery of the Victims' Code through better data collection and an enhanced role of Police and Crime Commissioners at the local level
- introducing a duty on Police and Crime Commissioners, local authorities and Integrated Care Boards in England to collaborate locally, to facilitate more holistic and better coordinated victim support services
- improving consistency of support provided by Independent Sexual Violence Advisors and Independent Domestic Violence Advisors by requiring the Secretary of State to issue statutory guidance about these roles, and placing a requirement on those advisors as well as other persons who work with victims, or any aspect of the criminal justice system - with the exception of the Judiciary - to have regard to that guidance.

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

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

- updating the role of the Victims' Commissioner, including a requirement for departments and agencies with a responsibility to meet the requirements under the Victims' Code to, if named, respond to recommendations made by the Victims' Commissioner in their published reports.

- bolstering national oversight through a power to direct joint thematic inspections on victims' experiences and a requirement for the criminal justice inspectorates to consult the Victims' Commissioner.

- removing the need to raise a complaint via an MP before it can be escalated to the Parliamentary and Health Service Ombudsman, where the complaint relates to the complainant's experiences as a victim of crime.

- Creates provisions to ensure that the police and other specified law enforcement organisations request information from third parties in respect of victims of criminal conduct only when it is necessary and proportionate and in pursuit of a reasonable line of inquiry.

8 The draft Victims Bill was published for pre-legislative scrutiny on 25 May 2022. Pre-legislative scrutiny was carried out by the Justice Select Committee and the Government's response to their report was published on 19 January 2023.

Meaning of a victim

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

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

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

12 The approach that has been taken in relation to the meaning of a victim of crime in this Act reflects that wider definition.

The Victims' Code

13 Under section 32 of the Domestic Violence, Crime and Victims Act 2004 (the 2004 Act), the Secretary of State must issue a Code of Practice for services to be provided to victims of criminal conduct by those persons working in the criminal justice system or having some function related to it. The first Code of Practice for Victims of Crime (Victims' Code) came into effect in 2006. It has since been updated several times. The latest Victims' Code, which was

laid before Parliament in November 2020 and came into force on 1 April 2021, sets out 12 overarching services which eligible victims are entitled to receive, and these are referred to as 'rights' in the Code.

14 In December 2021, the Government consulted on proposals to place the key principles of the Code in primary legislation and the detail of the Code in regulations and guidance, with the intent of raising the profile of the Victims' Code.

15 Respondents to the consultation were in favour of these proposals. This Act repeals the Code provisions of the 2004 Act, restates them with amendments and sets out in primary legislation the key principles that must be reflected in the services provided for by the Victims' Code.

16 The Act also creates a power for the Secretary of State to make regulations which make further provision about the Victims' Code, including about matters that the Code must include. The intention is that the regulations will set out a framework for the new Code by reference to the twelve key entitlements from the 2020 Code, to ensure victims continue to receive this level of service from criminal justice agencies, and to enhance Parliamentary oversight of the Code. This approach retains flexibility to review and amend the framework of the Code, to ensure that it stays relevant for victims. It also provides flexibility for further matters to be provided for in the regulations, if and when the Secretary of State deems it necessary.

17 The new Victims' Code issued under the Act is a statutory code which will set out in detail the services that should be provided to victims of crime. The Code needs to reflect the key principles as set out in the Act and accord with any provision set out in the regulations. The Act requires the Secretary of State to have regard to the needs of victims under the age of 18 and those with protected characteristics when considering whether to make different provision for different victims within the Code. The Code will explain who is entitled to access services and provide information about how they will be delivered.

18 The current legislation requires a public consultation before any changes can be made to the Victims' Code and the Act requires a public consultation to be held on any changes made to the Victims' Code. However, any amendments that the Secretary of State deems to be minor changes, such as clarifications or corrections can be made without a public consultation. The Secretary of State is required to consult with the Victims' Commissioner and Welsh Ministers for any revisions to the Code, including minor revisions.

19 The Act introduces a duty for Code service providers to provide their services in accordance with the Code unless there is a good reason not to. This makes it clear that compliance with the Victims' Code is not optional, while allowing operationally justifiable reasons to depart from the Code in individual cases where needed (for example, where a timescale is not met in order to deliver complex and sensitive information appropriately).

20 The Act places a duty on Code service providers to have complaints procedures for non-compliance with their duty to provide services in accordance with the Code, to demonstrate that complaints are taken seriously and that there should be clear avenues to resolve issues within the relevant body when victims do not receive the level of service they are entitled to.

Code awareness and compliance: specified bodies

21 The Act places a duty on specified bodies to promote awareness of the Victims' Code, and to keep under review their compliance with their duty to provide services in accordance with the Victims' Code, unless they have a good reason not to do so ("Code compliance").

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

"The criminal justice bodies:"

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

b. The Crown Prosecution Service

c. His Majesty's Courts and Tribunals Service

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

e. Youth Offending Teams.

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

- The British Transport Police – with the duty being placed on the Chief Constable of the British Transport Police; and
- The Ministry of Defence Police – with the duty being placed on the Chief Constable of the Ministry of Defence Police

Raising awareness of the Victims' Code

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

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

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

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

Monitoring compliance with the Victims' Code

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

29 As part of this overarching duty, this Act places a duty on each of the criminal justice bodies to collect prescribed information relating to the provision of services in the police area. This information will include victim feedback, with provision within the Act to facilitate the collection of feedback by a third party, if required.

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

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

32 To bolster oversight of Code compliance, the Act requires the Secretary of State (in practice the Home Secretary and Secretary of State for Justice) and the Attorney General to jointly keep Code compliance under review and publish an annual report on Code compliance having consulted the Victims' Commissioner.

33 To give confidence that action will be taken where agencies' Code compliance falls short, the Act provides for the Secretary of State (in practice the Home Secretary and Secretary of State for Justice) and the Attorney General to issue Non-Compliance Notifications to relevant bodies or PCCs where they agree that their Code compliance is unsatisfactory, which must also be published. The Act requires such notifications to only be issued following consultation with the Victims' Commissioner, who will provide independent scrutiny.

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

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

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

37 The Act contains powers for the Secretary of State to make regulations in respect of the duties placed on the specified bodies. These regulations may prescribe the different information to be collected or shared by them (and the form in which it should be collected and shared or require it to be provided in a form specified in a notice), for the overall purposes of keeping

Code compliance under review. It is intended that the information to be collected and shared will include: (i) compliance data relating to the delivery of the different services under the Victims' Code; and (ii) data relating to the experiences of users of those services, particularly victims' feedback regarding services received.

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

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

40 The Act requires that the Victims' Commissioner, as well as anyone else the Secretary of State deems appropriate, is consulted on the regulations and statutory guidance underpinning Code compliance and awareness measures.

41 The Act requires the Secretary of State to publish and implement, in consultation with the Victims' Commissioner, a strategy for providing mandatory training on the contents and application of the Victims' Code for relevant staff of specified authorities. The strategy must be reviewed and updated every three years.

Victim support services

42 Depending on their varying needs and experiences, victims of crime may require a range of support. Support roles can provide a range of services including providing emotional and practical support to help victims make informed choices, navigating support services, and engaging with the criminal justice system (if they choose to do so). The type and level of support provided by these roles varies from case to case depending on the needs of the individual.

43 In "Delivering justice for victims: A consultation on improving victims' experiences of the justice system", the Government consulted on how to strengthen victim advocate roles, with a focus on Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs). The Government subsequently looked into how better join-up can be promoted across agencies, reviewing the standards they operate under, alongside guidance and frameworks. The Government continued to engage with the third sector to understand which victim support roles would benefit from statutory guidance.

44 The Act creates a duty for the Secretary of State to issue guidance about victim support roles that are specified in regulations. The Act also gives the Secretary of State a power to make regulations that specify the victim support roles for this purpose. This approach allows for the flexibility to add further roles in the future where there is a sufficient case for statutory guidance. The intention is that these regulations will define the victim support roles for the purpose of requiring statutory guidance to be published, which will set out more information about these roles. It is recognised that the guidance will, in many cases, articulate a range of support provided by a particular role that goes beyond what is described in the definition of that role.

45 Guidance issued will improve clarity and awareness of the functions of the relevant victim support roles and encourage greater consistency across the sector. Guidance will include content on the core functions of the role and the support it provides, appropriate training, and how other individuals and relevant agencies can best work with the roles to holistically support victims. The guidance will reflect the broad nature of the roles and the need to consider support on an individual basis, including how the roles can best support children (persons under the age of 18) and those with protected characteristics.

46 The Act places duties to have regard to this guidance on all person with functions of a public nature relating to victims of crime, or any aspect of the criminal justice system where they are exercising such a function and the guidance is relevant to the exercise of that function (with the exception of the Judiciary so as to preserve judicial independence). This aims to foster greater collaboration and effective working across agencies in order to support victims' needs.

Confidentiality clauses and non-disclosure agreements

47 To address misuse of confidentiality clauses, which may be referred to as non disclosure agreements or NDAs, the Act provides clarity that NDAs cannot be legally enforced to the extent that they prevent a victim, or someone who reasonably believes they are a victim, from reporting a crime to the police or any other body that investigates or prosecutes crime, nor from cooperating with regulatory bodies. This clarifies the position that exists in common law.

48 To ensure victims can obtain the support they need, the measures in the Act mean NDAs are void to the extent they seek to prevent victims, or those who reasonably believe they are victims, from making disclosures about criminal conduct in order to obtain support from a regulated lawyer, from support services, such as counsellors, advocacy services, or medical professionals, or from their child, parent, or partner. This ensures that victims can make these vital disclosures without fear of legal recourse.

49 To protect wider confidentiality, the Act makes clear that these provisions would not void a confidentiality clause if disclosures were made to those groups for the primary purpose of releasing information into the public domain. For example, a confidentiality clause would not be void if a victim used a lawyer or support service to act as their 'spokesperson' to make the information public, rather than for the purpose of seeking support.

50 The Act provides that the Secretary of State may amend the list of permitted persons and purposes by regulations so that this list can be appropriately reviewed and kept up to date in the future.

51 The Act also provides that the Secretary of State may, by regulations, extend the provisions to cover specific obligations or liabilities in non-disclosure agreements so that they cannot be legally enforced in relation to the permitted disclosures. This ensures that this provision can keep pace with any obligations or liabilities that businesses may include in non-disclosure agreements with victims in order to circumvent this measure.

Restricting parental responsibility when one parent kills the other

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

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

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

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

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

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

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

Domestic Abuse Related Death Reviews

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

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

60 The definition of domestic abuse set out in the Domestic Abuse Act 2021 includes controlling or coercive behaviour, emotional abuse and economic abuse. It also clarifies that domestic abuse happens between individuals who are 'personally connected' via intimate or family relationships. Providing for a Domestic Abuse Related Death Review to be considered when a death has or appears to have resulted from domestic abuse as defined in the Domestic Abuse Act 2021 has the intention of ensuring Domestic Abuse Related Death Reviews contribute to understanding of domestic abuse, as well as encouraging consistency in decision making for reviews when domestic abuse has been identified. The provision would also prevent reviews from being commissioned when individuals are cohabiting but not personally connected.

61 Domestic Abuse Related Death Reviews can be commissioned following a homicide, a victim taking their own life after experiencing domestic abuse or in circumstances that are unexplained but give rise to concern. Providing for Domestic Abuse Related Death Reviews aims to better reflect the range of deaths that are within scope of a review and to prevent confusion when conducting reviews into suicides or unexpected deaths. The previous name was problematic for some families bereaved by suicide linked to domestic abuse, particularly in the absence of charges or if the abuse was not disclosed to agencies.

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

Victim impact statements in the Mental Health Tribunal

63 When the Parole Board is considering the release of an offender from prison, victims enrolled in the Victim Contact Scheme have the opportunity to submit and apply to read out a victim impact statement. In this statement, they can talk about the impact the crime has had on them.

64 To bring greater parity between settings, the Act allows victim impact statements to be made when the Mental Health Tribunal or Mental Health Review Tribunal for Wales is considering the discharge of a patient subject to a hospital order with a restriction order (a 'restricted' patient), pursuant to sections 37 and 41 of the Mental Health Act 1983. The Act sets out that the Tribunal may have regard to the statements when determining conditions of discharge, and that the statements will not be relevant to any other decision, including the decision to discharge the offender into the community which rightly remains based only on whether the Mental Health Act 1983 criteria for detention continue to be met.

65 To recognise the fact that some victims want to read their statement to decision makers, the Act gives victims a statutory entitlement to apply to read their statement at a hearing, where one is set to take place. It makes clear that this application should be approved unless there are good reasons not to, in line with Parole Board practice.

The role of the Victims' Commissioner

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

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

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

69 Additionally, although Police and Crime Commissioners will have oversight of the operation of the Victims' Code at a local level, the Victims' Commissioner will retain the existing responsibility to keep under review the overall operation of the Code. To bring this in line with the new Code compliance approach in the Act, the role of the Victims' Commissioner will be updated to make it clear that their duty to keep under review operation of the Code includes keeping under review the extent to which agencies' are complying with the duty to provide services in accordance with the Code, unless they have a good reason not do so. It is intended that the Code compliance oversight guidance will contain information regarding mechanisms that will be available to the Victims' Commissioner, should they choose to utilise them in order to work with Police and Crime Commissioners in their new role.

70 The Act also provides for the Victims' Commissioner to request that specified public authorities co-operate with the Commissioner in any way that the Commissioner considers necessary for the purpose of monitoring Code compliance along with a duty for those bodies to comply with that request insofar as it is reasonably practicable to do so.

Joint thematic inspections of victims' issues

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

72 The inspectorates do already work together effectively to undertake joint thematic inspections. However, to ensure that their programme of work regularly includes a focus on victims' issues, the Act introduces the ability for relevant Ministers to direct joint thematic inspections by criminal justice inspectorates to assess the experiences and treatment of victims throughout the entire criminal justice process. The policy intention behind requiring these joint thematic inspections is to make inspectorates more effective at: identifying key issues in relation to victims across the whole system; understanding the cause of these issues and the best ways to address them; and making recommendations that will ensure improvements in the service provided to victims.

73 This requirement applies to the following inspectorates:

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

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

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

Duty on criminal justice inspectorates to consult the Victims' Commissioner

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

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

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

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

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

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

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

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

82 Removal of the 'MP filter' will only apply to persons whose complaints relate to their experiences as victims of crime, for whom approaching an MP to share a potentially traumatic experience is more likely to be a barrier to making a complaint.

Victim information requests for purposes of a criminal investigation etc.

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

84 The Government's End to End Rape Review found that requests for third party material are sometimes unnecessary and disproportionate, and focused on victim credibility. Responses to the 'Police Requests for Third Party Material Consultation' (June to August 2022) further corroborated these findings and demonstrated support for legislative clarification. Subsequently, the Government committed to legislate to ensure that any third party material requested by an authorised person is necessary and proportionate to the investigation and to create a code of practice to ensure consistency across requests.

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

86 Under these measures an authorised person, the service police and the Service Police Complaints Commissioner, will have a duty to only request information on victims of criminal conduct where it is necessary and proportionate in pursuit of a reasonable line of enquiry. These persons must also notify the victim about whom the information is being requested or other relevant person (such as a parent or guardian or appropriate adult) for example in the case of children, missing or vulnerable persons. This includes a written notice detailing what information is being sought, why, and how it will be used. The authorised person will also have a duty to provide clear and detailed information to accompany victim information requests to third parties, unless it would be inappropriate to do so. This must include clear details about the information being sought and the reason why, as well as how the material will be used. The measures also impose a duty to have regard to the accompanying code of practice with the intention of ensuring that police requests for victim information are necessary and proportionate. When considering a request for victims' counselling records (a specific type of TPM of particular sensitivity), an authorised person will only be able to make such a request where the records sought are likely to have substantial probative value to a reasonable line of enquiry being pursued or to be pursued. Additionally, the measures require the code (i) to include a rebuttable presumption that requests for counselling records are not necessary and proportionate for a law enforcement purpose and (ii) to prescribe the steps that must be taken in reaching any decision to rebut that presumption. Lastly, the Secretary of State will be required to review the operation of these additional safeguards applicable to counselling records three years after they come into force.

Third Party Harassment: Victims’ right to data erasure

87 Article 17 of the UK General Data Protection Regulation (“UK GDPR”) gives a victim the right to request erasure of personal data concerning them where one of the grounds listed in Article 17(1) is met. Whilst this right to erasure gives victims some redress from the harm experienced from malicious allegations, the Act creates a new ground in Article 17(1) of UK GDPR. This will create the right for certain victims, who are the data subject, to request deletion of personal data when (i) an allegation has been made by a person who has been convicted of a “relevant criminal offence” against the data subject, or the person is subject to a stalking protection order made to protect the data subject from a risk associated with stalking; and (ii) following an investigation by the data controller, it has been decided that no further action is to be taken in relation to the allegation.

88 The Act sets out relevant offences of stalking and harassment across the UK jurisdictions. The Act provides that additional offences may be added to the list of relevant offences via regulations subject to the affirmative resolution procedure, should it be considered necessary in future.

89 To ensure that where the data controller has an important reason to retain the data, the exemptions within Article 17(3) of the UK GDPR will still apply. This allows the data controller to refuse the request for a limited list of reasons. This includes where processing is necessary for compliance with a legal obligation or the performance of a task carried out in the public interest, which would capture refusal for safeguarding reasons. Data controllers must provide reasons for any refusal and inform data subjects of their right to complain to the Information Commissioners Office.

90 Relevant sectoral guidance, including on child safeguarding, will be updated so data controllers understand how the new ground is intended to work. The Victims’ Code will also be amended so that victims are aware of their rights around data erasure.

Victims of Major Incidents (Appointment of Advocates)

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

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

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

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

95 A number of existing legal disclosure requirements already apply to public authorities, public servants and officials in relation to a variety of proceedings. Public authorities, for example, are under a duty of candour during judicial reviews; during inquiries, the chairperson has powers to compel the production of evidence and documentation; and civil servants are bound by the civil service code which requires them to act honestly and with integrity.

96 Concern has been raised in recent years that the existing requirements have not been sufficient to ensure the desired levels of transparency and candour from such persons in proceedings relating to a number of high-profile incidents (including in particular inquiries relating to the Hillsborough tragedy, Horizon IT systems and the Post Office and Infected Blood).

97 This has resulted in calls for a general duty of candour to be placed upon public authorities, servants and officials (sometimes referred to as the "Hillsborough Law").

98 The measures in this Act require a review to determine the extent to which additional duties of transparency and candour should be imposed on public servants in relation to major incidents.

Infected Blood Compensation Body

99 In the 1970s and 1980s, blood and blood clotting products mainly sourced from the USA and supplied by the NHS were contaminated with HIV and Hepatitis (B and C). Many patients were infected via blood transfusions using contaminated blood; with most incidents of infection occurring with Haemophilia sufferers and those with other bleeding disorders.

100 The Infected Blood Inquiry was announced in September 2017 by the then Prime Minister, Theresa May, chaired by Sir Brian Langstaff KC. It was set up to examine the circumstances that led to individuals being given contaminated blood and blood products in the UK, as well as the aftermath. It has been taking evidence since 2018 and its final report was published on 20 May 2024.

101 Sir Robert Francis KC was commissioned in 2021 by the Government to provide independent advice on a framework for compensation, separate to the Infected Blood Inquiry. In March 2022, Sir Robert Francis produced a Compensation Framework Study which provided 19 detailed recommendations. There have been two interim reports from the Inquiry. The first published in July 2022 and the second published in April 2023, which built on the recommendations of Sir Robert Francis' study.

102 The Government accepted the moral case for compensation and accepted in full the Inquiry's first interim report recommendation to pay infected people or bereaved partner beneficiaries of existing Infected Blood Support Schemes (IBSS) across the UK (and those who join in the future) an interim payment of £100,000. By the end of October 2022, this interim payment had been provided to existing members. New applicants remain entitled to register with IBSS to receive annual support payments, until those are superseded by a final compensation payment.

103 In response to the second interim report containing the Inquiry's recommendation on compensation, the Government appointed an Expert Group of legal and clinical experts in January 2024 to advise on a compensation framework, pending delivery of the final Inquiry report.

104 On 30 April 2024, the Government made amendments to Part 3 of the Victims and Prisoners Act to establish the necessary legal framework for delivery of a compensation scheme, including a new delivery body to operate on a UK wide basis. The amendments followed Commons Report Stage, where Parliament voted in Part 3 with the intention of creating a statutory duty to establish a compensation scheme for victims (both infected and affected), as referenced by the Inquiry's second Interim Report.

The Parole Board and prisoner release

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

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

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

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

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

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

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

112 Imprisonment for Public Protection (IPP) sentences were introduced in 2005 as an indeterminate sentence targeted at serious offenders who did not merit a life sentence. Under the sentence, offenders were given a minimum term that had to be served in full in custody. At the end of the term, they can be released only if the Parole Board is satisfied that they are safe to be released on licence. IPP sentences were abolished in 2012, although not retrospectively, so there are still IPP offenders in custody who are subject to Parole Board release (including both those who are awaiting first release and those who have been recalled).

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

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

The Statutory Release Test

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

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

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

Top-tier Cohort

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

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

Secretary of State's powers

119 The Act creates powers to enable the Secretary of State, if they so decide, to review any case in which the Parole Board has decided to release a top tier prisoner and refer it to the High Court for a second check.

120 If the Parole Board determines that a top tier prisoner presents no more than a minimal risk of committing a serious offence on release and is, therefore, eligible for release, it must notify the Secretary of State of its decision.

121 The measures will provide that, where the Board have directed the release of a prisoner who has committed a top-tier offence, the Secretary of State may direct the Board to refer the case to the High Court to retake the decision. The Secretary of State may only refer a case if they consider that the release of the offender would likely undermine public confidence in the parole system and that the High Court might find that the release test has not been met. The Secretary of State may direct such a referral without first asking the Board to reconsider, or set aside, its decision.

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

Interpretive provision relating to the release legislation

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

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

Parole Board membership

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

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

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

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

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

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

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

131 The HMPPS IPP Action Plan, published in April 2023, has provided intensive help for IPP offenders to reduce their risk and work towards Parole Board release. These efforts have resulted in a significant fall in the IPP prison population who have never been released. The Justice Select Committee (JSC) published their report on the IPP Sentence on 28 September 2022 following a year long inquiry. One of the recommendations was that the point of eligibility for licence termination should be brought forward to five years following first release. The Government and Parole Board's official response was published on 9 February 2023. These amendments adopt one of the JSC's recommendations.

132 The measure in this Act will reduce the current licence termination qualifying period from 10 years to three years. Where the licence is not terminated by the Parole Board the licence will be automatically terminated where there is a further two year period in the community without being recalled to prison (the 'good behaviour period'). Re-release from recall will reset the automatic period. This is based on data that shows that recalls to prison primarily occur in the first three years after release, and reduce from year four onwards. If recalled to prison and subsequently released, the new two year "good behaviour" period provides offenders with an opportunity to demonstrate two years without recall to prison, and qualify for automatic termination of their licence. The measures also require the Government to publish an annual report on progress on reducing the IPP population. This includes how many licences have been ended, steps to improve sentence progression and how they are supporting certain cohorts of offenders.

Adding controlling or coercive behaviour to MAPPA

133 Sections 325 to 327B of the Criminal Justice Act 2003 ("CJA 2003") provide for the establishment of multi-agency public protection arrangements (MAPPA) across England and Wales. These arrangements require the Police, Probation and Prison Services (which jointly constitute the MAPPA responsible authority in the police force areas in England and Wales) to work together with other agencies to assess and manage the risks posed by violent, sexual, and terrorist offenders living in the community in order to protect the public. Offenders who meet the criteria set out in sections 325 to 327 of the CJA 2003 will be subject to management under the MAPPA process.

134 Under current arrangements, offenders convicted of controlling or coercive behaviour can be managed under the discretionary power in section 325(2)(b) of the CJA 2003 which allows for management of other offenders who are assessed to pose a risk to the public.

135 On 20 February 2023, in a written statement the then Home Secretary undertook to add the offence of controlling or coercive behaviour to the list of offences to result in an offender being automatically managed under MAPPA.1 2 MAPPA enable more intensive management and targeting of the most dangerous domestic abuse offenders.

Home Detention Curfew

136 Home Detention Curfew enables eligible, suitable offenders to be released early from prison, in order to have a transition period after leaving custody and beginning supervision in the community on licence. During this transition period, they are subject to restrictions that limit their movements and activity but can begin reintegrating into the community sooner.

137 Offenders must be subject to an electronically monitored curfew at their home address. They may also be subject to electronic monitoring of their location beyond the home address where this is considered necessary, and fitted with alcohol monitoring tags if this is something that played a role in their offending history.

138 Certain offenders are statutorily excluded from HDC, including registered sex offenders and terrorist offenders while others are, as a matter of policy, presumed to be unsuitable for the scheme in the absence of exceptional circumstances. Offenders presumed to be unsuitable for release on HDC include those serving a sentence for cruelty to children and homicide and certain offences often related to Domestic Abuse. The current list is set out in the HDC Policy Framework (Home Detention Curfew Guidance, MOJ, 28 March 2019, https://www.gov.uk/government/publications/home-detention-curfew).

139 When HDC was introduced, the sentencing framework provided for short- and long-term sentences under provisions set out in the Criminal Justice Act 1991 ("the 1991 Act"). Those serving less than four years were treated as short-term prisoners and were subject to automatic release at the halfway point of the sentence. Those serving four years, or more, were treated as long-term prisoners, subject to discretionary release from the halfway point and automatic release from the two-thirds point.

140 There is no longer a statutory distinction between short-term and long-term sentences, and it is no longer necessary to exclude individuals from being considered for HDC solely due to sentence length. The provisions of this Act, if enacted, extend HDC to offenders serving Standard Determinate Sentences of four years or over. Release on HDC will remain subject to risk assessment and certain violent or sexual offenders will remain excluded or presumed unsuitable due to the nature of the offence. Offenders who have not complied with the HDC curfew conditions in the past two years will be excluded from the scheme, replacing the previous lifetime ban on offenders who had previously failed to comply with their curfew.

141 Finally, the provisions if enacted, will repeal the ban on access to HDC for those individuals who have had an "at risk" return. An "at risk" return was where prisoners could be returned) to prison after committing a further imprisonable offence between release from custody and the end of their sentence. Prison sentences have not included an "at risk" period since the relevant provisions were repealed in 2012. Sentenced prisoners are now released on licence under probation supervision and liable to recall to prison right up to the sentence end date.

Restriction on marriage for whole life order prisoners

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

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

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

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

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

Legal background

The Victims' Code

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

Restricting parental responsibility when one parent kills the other

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

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

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

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

Confidentiality clauses and non-disclosure agreements

152 Under common law, confidentiality clauses are unlikely to be enforced in respect of disclosures about crime to the police and other bodies which investigate and prosecute crime. The provisions in relation to confidentiality clauses and non-disclosure agreements clarify the common law position in primary legislation and set out which disclosures are permitted under the Victims and Prisoners Act.

Victim impact statements in the Mental Health Tribunal

153 Chapter 2 of the Domestic Violence, Crime and Victims Act 2004 contains entitlements for victims of certain offenders to make representations about certain matters and receive information in specified circumstances. Section 36 sets out entitlements for victims of offenders who are subject to hospitals orders (pursuant to s.37 of the Mental Health Act 1983) with or without restriction orders (which, if imposed, are done so pursuant to s.41 of the Mental Health Act 1983). Section 37 contains further provision around the procedure for handling victim representations in cases where a restriction order is made. This Act inserts new entitlements relating to victim impact statements into the existing framework in Chapter 2. This is inserted after section 37 as it applies in the same circumstances, namely where the offender is subject to a hospital order with a restriction order.

The Commissioner for Victims and Witnesses

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

Inspectorates

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

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

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

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

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

156 These Acts will continue to be the main Acts dealing with inspectorate powers, and this Act inserts new provisions into the schedules of the above Acts.

The Parliamentary Commissioner

157 The provisions in relation to the Parliamentary Commissioner are set out in primary legislation. The relevant provisions for the purposes of this Act are sections 5, 6 and 10 of the Parliamentary Commissioner Act 1967. This Act will continue to be the main Act dealing with complaints referred to the Parliamentary Commissioner in relation to Government departments, and this Act inserts new provisions into the 1967 Act.

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

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

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

Right to erasure of personal data

160 The EU GDPR was incorporated into UK law at the end of the EU Transition Period under section 3 of the European Union (Withdrawal) Act 2018 (EUWA 2018) and modified by the Data Protection, Privacy and Electronic Communication (Amendments etc) (EU Exit) Regulations 2019 under the power in section 8 EUWA 2018 to create the UK GDPR.

161 Under Article 17 of the UK GDPR, individuals have the right to have personal data erased unless one of the grounds in Article 17(1) apply. This right does not apply if processing the data is necessary for particular purposes (as set out in Article 17(3)) which includes where processing is necessary for the performance of a task carried out in the public interest.

Advocates for major incidents

162 The provisions that create advocates for major incidents are new. Section 41 amends section 47 of the Coroners and Justice Act 2009 so that an advocate appointed to assist victims of a major incident will be an interested party to an inquest arising out of that major incident.

163 Section 46 "consequential amendments" inserts "An advocate for victims of major incidents appointed under Part 2 of the Victims and Prisoners Act 2024" into: paragraph 3 of Schedule 1 to the Public Records Act 1958; Schedule 2 to the Parliamentary Commissioner Act 1967; Schedule 1 to the House of Commons Disqualification Act 1975; Part 6 of Schedule 1 to the Freedom of Information Act 2000; and Schedule 19 to the Equality Act 2010.

164 The effect of these changes is that: the Public Records Act 1958 applies to advocates and will require an advocate to take steps to preserve records; advocates will also be subject to the Parliamentary Commissioner Act 1967 which sets out the circumstances when the Commissioner can investigate a written complaint which is made to a member of the House of Commons; advocates will be disqualified from membership of the House of Commons; advocates will be a "public authority" as defined by the Freedom of Information Act 2000 and finally, the public sector equality duty also applies to advocates.

Parole eligibility

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

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

Public protection test

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

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

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

Secretary of State's power to refer a case

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

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

Interpretive provision relating to Convention rights and the release legislation

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

Imprisonment or detention for public protection: termination of licences

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

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

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

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

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

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

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

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

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

Multi-agency public protection arrangements ("MAPPA") and controlling or coercive behaviour

182 MAPPA was established in 2001 and is now provided for under sections 325 to 327 of the Criminal Justice Act 2003, to manage the risks of specified serious offenders released in the responsible authorities' areas. It provides for a duty on relevant agencies with roles relating to the management of these offenders to co-operate and share information, having regard to statutory guidance. In 2015, a number of serious offences against children were added to section 327 automatic MAPPA management, via the Deregulation Act 2015. In 2022, terrorist offenders were added as a discrete category of automatic MAPPA management by the Police, Crime, Sentencing and Courts Act 2022.

183 The offence of controlling or coercive behaviour in an intimate or family relationship was introduced by section 76 of the Serious Crime Act 2015, punishable by up to 5 years' imprisonment.

Home detention curfew

184 Current release provisions, set out in Part 2 of the CJA 2003, require that most offenders serving standard determinate sentences of imprisonment ("SDS"), and all who are serving an SDS of less than four years in length, must be released at the halfway point of their sentence (the 'conditional release date').

185 The Home Detention Curfew ("HDC") scheme, which became available in 1999 following the passing of the Crime and Disorder Act 1998, enables certain offenders to be released ahead of this halfway point. Section 246 of the CJA 2003 gives the Secretary of State a discretionary power to release offenders on licence where certain eligibility requirements are met and subject to an electronically monitored curfew. Those released on HDC must serve at least a quarter of their sentence and a minimum of 28 days before release and certain offenders are excluded from or presumed unsuitable for the scheme. The maximum period of HDC is currently 180 days

Prohibiting whole life order prisoners from marrying in prison

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

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

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

189 The 1949 Act was amended by the Marriage Act 1983 to enable marriage in prison following the decision of the European Commission on Human Rights in the case of Hamer v UK [1979] 12 WLUK 129. The 1983 Act enables marriages of house-bound and detained people to be solemnized at the place where they reside. Amongst other things the 1983 Act also inserted section 27A (on solemnising marriages at a person's residence, including a prison) into the 1949 Act.

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

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

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

Territorial extent and application

193 The Act extends and applies to England and Wales only, with the following exceptions:

a. Sections 13 – 15 (duty to collaborate in the exercise of victim support functions) extend to England and Wales but apply to England only;

b. Section 19 (Domestic abuse related death reviews) extends and applies to England and Wales and Northern Ireland;

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

d. Section 29 (information relating to victims: service police etc.) extends and applies to England and Wales, Scotland and Northern Ireland.

e. Section 31 (right to erasure of personal data) extends and applies to England and Wales, Scotland and Northern Ireland;

f. Section 45 (Part 2: consequential amendments) extend and apply to England and Wales, Scotland and Northern Ireland. Subsection (5) extends and applies to England and Wales and Scotland;

g. Part 3 (Infected Blood Compensation Body) extends and applies to England and Wales, Scotland and Northern Ireland. There is provision in the Act for any of the provisions of Part 3 to be extended, with or without modifications, via Order in Council to any of the Channel Islands, the Isle of Man, Gibraltar or the Falkland Islands; and

h. Part 5 (General) extends and applies to England and Wales, Scotland and Northern Ireland.

Commentary on provisions of Act

Part 1: Victims of Criminal Conduct

Meaning of "victim"

Section 1: "Meaning of Victim"

194 Section 1 defines a "victim" for the purpose of this Part of the Act.

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

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

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

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

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

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

201 Subsection (4) defines:

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

b. "Criminal conduct" which means conduct which constitutes an offence in England and Wales, except for in relation to Section 27, where it covers conduct which constitutes an offence in the UK, because the Parliamentary Health Services Ombudsman is a UK-wide body.

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

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

Victims' Code

Section 2: The Victims' Code

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

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

206 These principles are that victims of criminal conduct require:

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

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

208 Subsections (6)-(9), as substantively restated from the 2004 Act allow the Code, amongst other things to:

- differentiate between different types of victims, for example so that particularly vulnerable victims might receive a faster service, or a service tailored to their needs, specifying that particular regard must be paid to the needs of victims under the age of 18 and those with protected characteristics when considering whether to make different provision for victims of different descriptions;
- benefit persons other than the victim, such as those who might represent the victim like parents of victims who are children; and
- allow for regional variations in the way that services are provided to victims so that the Code can reflect local practices.

209 Subsection (11) provides that the Code may not require anything to be done by a person acting in a judicial capacity (or someone acting on their behalf in that capacity) or by a person acting in the discharge of a prosecutorial function if that function involves exercising a discretion.

210 Subsection (13) is a transitional provision designed to ensure the continuity of the Victims' Code.

Section 3: Preparing and issuing the Victims' Code

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

212 Section 3 restates the obligation for the Secretary of State to consult the Attorney General and also includes new statutory consultees - Welsh Ministers and the Victims' Commissioner.

Section 4: Revising the Victims' Code

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

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

Section 5: Effect of non-compliance

215 Subsection (1) provides that when the Victims' Code makes provision for a person to provide a service, that person ("the service provider") is required to provide that service in accordance with the Code, unless the service provider has good reasons not to do so.

216 Subsection (2) requires all service providers who are legal persons (rather than individuals) to have procedures in place for persons to complain about an alleged failure to comply with the service provider's duty to provide services in accordance with the Code.

217 Subsections (3) and (4) restate section 34 of the Domestic Violence, Crime and Victims Act 2004 and provides that a failure to comply with the Code does not, in itself, give rise to any liability to criminal or civil proceedings.

Section 6: Code awareness and reviewing compliance: criminal justice bodies

218 Sections 6 and 8 use the definition "elected local policing body", which has the meaning given by section 101 of the Police Act 1996, namely; (a) a police and crime commissioner, and (b) the Mayor's Office for Policing and Crime. This is in contrast to the Section 13 duty which applies to "local policing bodies"; the difference being that "elected local policing bodies" does not include the Common Council for the city of London Police area. This is because the guidance will set out that Section 6 and 8 duties may be discharged within police and crime commissioner-chaired Local Criminal Justice Boards (LCJBs). The City of London police area does not have its own LCJB but is instead included within the London Criminal Justice Board. In addition, when criminal justice bodies break their data down to force area, London includes both City of London and the metropolitan police area. This approach has been confirmed as appropriate by the Association of Police and Crime Commissioners. For the purposes of these provisions, elected local policing bodies are referred to hereafter as PCCs.

219 Section 6 places a duty on specified criminal justice bodies to take reasonable steps to promote awareness of the Victims' Code and to keep under review whether and how their services are provided in accordance with their duty to provide services in accordance with the Victims' Code unless they have a good reason not to do so (their "Code compliance").

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

221 Subsection (1)(b) specifies that the bodies must keep their Code compliance under review. Criminal justice bodies must keep under review whether the services are being provided at all, as well as how they are delivering them (i.e. what ways are the services provided).

222 Subsections (2)(a) – (c) place specific duties on criminal justice bodies in each police area to collect information and to share information about their Code compliance with each other and with the relevant PCC, and to jointly review the information shared with other criminal justice bodies and with the relevant PCC for that police area. Subsections (2) and (3) contain powers for the Secretary of State to prescribe in regulations the descriptions of information that should be collected and/or shared for the overall purpose of keeping Code compliance under review , as well as to prescribe the manner in which information must be collected, shared, and reviewed. The intention is that the information to be collected and shared will include; data on criminal justice bodies' compliance with the delivery of responsible services under the Victims' Code and information relating to the experiences of service users. Subsections (4)(a) – (e) set out a non-exhaustive list of matters that the regulations may prescribe. This includes different information to be collected or shared by the different bodies and in relation to different services provided under the Code, information relating to the characteristics or experiences of users of those services that should be collected and shared by criminal justice bodies, the times at which or periods within which information must be collected, shared or reviewed, and the form that it should be collected and shared including as may be specified in a notice issued from time to time by the Secretary of State.

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

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

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

Section 7: Arrangements for collection of victims' feedback

226 Section 7 gives the Secretary of State (in practice the Secretary of State for Justice and the Home Secretary) and the Attorney General a power to jointly direct relevant criminal justice bodies (the police, the CPS and youth offending teams) to provide specified information to a third party for the purposes of enabling or assisting the third party to collect victim feedback, if a third party was commissioned to do so.

Section 8: Reviewing code compliance: elected local policing bodies

227 Subsection (1) places a duty on Police and Crime Commissioners in each police area to keep under review whether and how the criminal justice bodies in their area are providing their services in accordance with their duty to provide services in accordance with the Victims' Code unless they have a good reason not to do so ("Code compliance"). . PCCs must keep under review whether the services are being provided at all, as well as how the bodies are delivering them (i.e. in what ways are the services provided).

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

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

Section 9: Reviewing compliance: British Transport Police

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

231 Subsection (3) places a duty on the BTP and the British Transport Police Authority (BTPA) to keep under review BTP's compliance with the duty in Section 5(1) (duty to provide services in accordance with the Victims' Code) ("Code compliance"). As the BTP is a national force, it does not fall within PCC areas. The BTPA is therefore the appropriate alternative to the PCC for overseeing compliance with the Victims' Code. As the BTP is a national force, it does not fall within PCC areas. The BTPA is therefore the appropriate alternative to the PCC for overseeing compliance with the Victims' Code.

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

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

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

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

Section 10: Code awareness and reviewing compliance: Ministry of Defence Police

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

237 Subsection (3) places a duty on the MDP and the Secretary of State (in practice, this would be the Secretary of State for Defence) to keep under review MDP's compliance with the duty in Section 5(1) (duty to provide services in accordance with the Victims' Code) ("Code compliance"). As the MDP is a national force, it does not fall within PCC areas. The Secretary of State for Defence is therefore the appropriate alternative to the PCC for overseeing compliance with the Victims' Code. As the MDP is a national force, it does not fall within PCC areas. The Secretary of State for Defence is therefore the appropriate alternative to the PCC for overseeing compliance with the Victims' Code

238 Subsections (4) (a)-(c) specify that the Chief Constable of the MDP must collect information about their Code compliance and share information about their Code compliance with the Secretary of State (in practice, this would be the Secretary of State for Defence). The MDP is also required to jointly review the information shared with the Secretary of State. Regulations will be used to prescribe the information to be collected and/or shared. The Government intends that this will include; data relating to MDP's compliance with the delivery of responsible services under the Victims' Code and information relating to the experiences of service users.

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

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

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

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

Section 11: Reviewing code compliance: Secretary of State and Attorney General

243 Subsection (1) requires the Secretary of State (in practice the Home Secretary and Secretary of State for Justice) and the Attorney General to jointly keep under review criminal justice bodies, BTP and MDP's compliance with the duty in section 5(1) (duty to provide services in accordance the Victims' Code) ("Code compliance") and to jointly prepare and publish annual reports on Code compliance.

244 Subsection (2) provides that the Secretary of State (in practice the Home Secretary and Secretary of State for Justice) and the Attorney General may issue a notice to PCCs or the relevant agency when they agree that the Code compliance of the relevant agency is deemed unsatisfactory.

245 Subsection (3) requires that if a notice is issued to a PCC in relation to the chief officer of police for a police area, a copy of the notice must be sent to that chief officer and, in any case, it must be published in such form and manner that the Secretary of State and Attorney General consider appropriate.

246 Subsection (4) requires the Secretary of State and the Attorney General to consult the Victims' Commissioner before publishing the annual report on Code compliance (under subsection 1) and before giving a notice (under subsection 2).

247 Subsection (5) requires the Secretary of State to publish such compliance information as the Secretary of State considers will enable members of the public to assess the Code compliance of each criminal justice bodies which provides services in a police area, the BTP and the MDP. Subsection (7)(a) specifies that "compliance information" refers to the information provided to the Secretary of State by PCCs, the BTPA and the MDP under Sections 8(2)(a), 9(5)(a) and 10(4)(b) or information collected under arrangements mentioned in Section 7 (*Arrangements for collection of victims' feedback*). Subsection (7)(b) defines the term "code compliance".

248 Subsection (8) defines "relevant area" as that which relates to a police force area for criminal justice bodies, or England and Wales for the British Transport Police and the Ministry of Defence Police.

249 Subsection (9) states that the Secretary of State and Attorney General's first annual report on Code compliance may relate to any 12 month period that includes the day on which that section comes into force. Subsection (10) states that any subsequent annual reports must relate to the 12-month period immediately following the 12-month period to which the previous annual report relates. Subsection (11) states that the Secretary of State, in practice the Secretary of State for Justice, must lay each annual report before Parliament.

250 Subsection (12)(a) and (b) sets out the frequency at which compliance information or a report must be published and states that the form and manner of such publication is a matter for the Secretary of State as they consider appropriate.

251 Subsection (13) provides that PCCs must take reasonable steps to make the public in their local police area aware of the information published by the Secretary of State under subsection (5) where that information relates to their own police force area. A similar duty is not required for the Secretary of State for Defence or BTPA as the data published by the Secretary of State for Justice will already present a national picture, ensuring parity between the non-territorial forces (with national jurisdiction) and territorial forces (whose data would be publicised by their PCC).

252 Subsection (14) provides "criminal justice body" in Section 11 has the same meaning as in Section 6(6) (and therefore refers to the police, the Crown Prosecution Service, His Majesty's Court and Tribunal Service, His Majesty's Prison and Probation Service and its executive agencies (His Majesty's Prison Service, the Probation Service and the Youth Custody Service), and Youth Offending Teams).

Section 12: Guidance on code awareness and reviewing compliance

253 Subsection (1) requires the Secretary of State to issue guidance about how the criminal justice bodies, Police and Crime Commissioners, the Chief Constable of the British Transport Police the British Transport Police Authority and the Chief Constable of the Military Defence Police are to discharge their duties under Sections 6-11. Those bodies must have regard to the guidance.

254 Subsection (2) sets out a non-exhaustive list of matters for which the guidance may make provision to support the relevant bodies in discharging their functions under Sections 6-11. The purpose of this guidance is to advise on issues such as: appropriate circumstances and methods for promoting awareness of the Victims' Code among service users and members of the public; advice on obtaining feedback from children and those with protected characteristics; likely processes for joint review of criminal justice body information, which is expected to take place within PCC-chaired Local Criminal Justice Boards, alongside parallel processes for the MDP and the BTP. It will also detail matters PCCs should consider when

exercising their functions, referring to the interaction between their role and that of the Victims' Commissioner who has a general duty to keep under review the operation of the Code.

255 Subsection (3) requires that, before issuing any guidance, the Secretary of State must consult the Victims’ Commissioner and such other persons they consider appropriate. This enables discretion for targeted consultation with those affected and with a specific interest, which it is anticipated may include, for example relevant bodies who are subject to the duties under Sections 6-11.

Collaboration in exercise of victim support functions

Section 13: Duty to collaborate in exercise of victim support functions

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

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

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

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

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

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

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

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

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

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

Section 14: Strategy for collaboration in exercise of victim support functions

265 Subsection (1) provides that the duty in Section 13 includes a requirement that the relevant authorities in a police area in England work together to prepare and implement a joint local strategy to set out the aims and approach for commissioning relevant services, as well as setting out how local areas are meeting the duty requirements.

266 Subsection (2) requires the relevant authorities for a police area to make reasonable efforts to obtain the views of victims in their police area (meaning directly from victims themselves or via someone representing their views, such as an advocate) when preparing the strategy. They are also required to consult persons appearing to represent those providing victim support services; and such other persons as they consider appropriate (for example, the educational authority for the area or independent experts like the Victims' Commissioner).

267 Subsection (3) requires the relevant authorities to also (a) assess the needs of victims in the police area for relevant victim support services; (b) assess whether; and how, those needs are being met by the services which are available (whether or not provided by the relevant authorities), and (c) have regard to those assessments when preparing their strategy. When making an assessment under subsection (3), the relevant authorities must have regard to the particular needs of victims aged under 18 or who have protected characteristics.

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

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

Section 15: Guidance on collaboration in exercise of victim support functions

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

Section 16: Guidance about specified victim support roles

271 Subsection (1) creates a duty on the Secretary of State to issue guidance about specified victim support roles.

272 Subsection (2) explains that the Secretary of State has the power to specify these victim support roles in regulations. For the purpose of this section, "victim support role” is defined as a role performed by individuals which provides support to victims of criminal conduct (where the support relates to that conduct).

273 Subsection (3) sets out how victim support roles could be described in regulations. The victim support roles named in regulations may be specified by reference to (amongst other matters) -

a. the circumstances in which the role is performed. For example, a victim support role which provides specialist support for victims of a specific crime type or provides a specific type of support;

b. the type of support provided in connection with the role. For example, a victim support role which provides advocacy support to victims to engage with the criminal justice system;

c. the type of criminal conduct in relation to which such support is provided. For example, domestic abuse.

274 Subsection (4) sets out that this guidance must cover the key functions of the role alongside recommended minimum expectations and best practice, including training and qualifications. It must also set out best practice for collaboration between the role and those who have functions relating to victims, or any other aspect of the criminal justice system in order to effectively work together to meet the needs of victims.

275 Subsection (5) specifies that, where relevant, the guidance must include provision about victims who are under the age of 18 and those with protected characteristics.

276 Subsection (6) creates a duty on any person who has a function of a public nature which is related to victims or any aspect of the criminal justice system to have regard to the guidance. This duty will have effect where such a function is being exercised, and the guidance is relevant to the exercise of that function.

277 Subsection (7) specifies that the duty to have regard to the guidance - outlined in subsection (6) - does not apply to those acting in a judicial capacity, or on the instructions of or on behalf such a person. This is designed to protect judicial independence.

278 Subsection (8) specifies that the Secretary of State must consult the Welsh Ministers before issuing guidance under this section, so far as the guidance relates to devolved matters, meaning a matter provision about which would be within the legislative competence of Senedd Cymru were it contained in an Act of the Senedd.

Non-disclosure agreements and confidentiality clauses

Section 17: Disclosures by victims that cannot be precluded by agreement

279 Subsection (1) voids the portion of confidentiality clauses that purport to preclude victims from making a disclosure falling under subsection (2). This means a confidentiality clause could not be legally enforced against a victim for making a permitted disclosure under subsection (2) in the context of a claim against a victim for breach of contract by the other party to the agreement.

280 Subsection (2) specifies the permitted disclosures that a victim, or a person who reasonably believes they are a victim, can make:

a. to any person who has law enforcement functions, for the purpose of those functions being exercised in relation to relevant conduct;

b. to a qualified lawyer, for the purpose of seeking legal advice about relevant conduct;

c. to any individual who is entitled to practise a regulated profession, for the purpose of obtaining professional support in relation to relevant conduct;

d. to any individual who provides a service to support victims, for the purpose of obtaining support from that service in relation to relevant conduct;

e. to a regulator of a regulated profession for the purpose of co-operating with the regulator in relation to relevant conduct;

f. to a person who is authorised to receive information on behalf of a person mentioned in paragraph (a), (b), (c), (d) or (e) for the purpose mentioned in that paragraph;

g. to a child, parent or partner of the person making the disclosure, for the purpose of obtaining support in relation to relevant conduct.

281 Subsection (3) provides that a confidentiality clause would not be void under these provisions if the victim makes a disclosure to anyone listed under subsection (2) for the primary purpose of releasing the information into the public domain. This aims to protect the legitimate uses of non-disclosure agreements. This provision does not conflict with whistleblowing legislation under the Employment Rights Act 1996. The Act allows workers to make a protected disclosure, which can involve the release of information into the public domain, if the relevant criteria in that legislation is met. In those cases, confidentiality clauses would be voided by virtue of the Employment Rights Act provision instead.

282 Subsections (4) and (5) provide that the Secretary of State may by regulations subject to the affirmative resolution procedure amend the list of permitted disclosures under subsection (2) and extend the application of subsection (1) to specific obligations or liabilities in non-disclosure agreements so that they cannot be legally enforced in relation to the permitted disclosures.

283 Subsection (6) defines "law enforcement functions" as functions for the purposes of the investigation or prosecution of criminal offences or the execution of criminal penalties and sets out that "qualified lawyer" means a person who is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007.

284 Subsection (6) also defines "entitled to practise" in relation to a regulated profession as to be read in accordance with section 19(2) of the Professional Qualifications Act 2022 and provides that "regulated profession" and "regulator" have the same meanings as in the Professional Qualifications Act 2022.

285 Subsection (6) specifies that a person is a "partner" of another person if they are married to each other, in in a civil partnership with each other, or in an intimate personal relationship with each other which is of significant duration. "Relevant conduct" is also defined as conduct by virtue of which the person making the permitted disclosure is or reasonably believes they are a victim.

Restricting parental responsibility where one parent kills the other

Section 18: Restricting parental responsibility where one parent kills the other

286 Section 18 amends the Children Act 1989 to place a requirement on the Crown Court to make a prohibited steps order (PSO) when the offender is sentenced in cases where one parent has been convicted of the manslaughter or murder of the other parent. The section also places a duty on the local authority to make an application to the High Court or the family court to review the PSO.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Domestic Abuse Related Death Reviews

Section 19: Establishment and conduct of domestic abuse related death reviews

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

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

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

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

Notifying schools etc if a child is a suspected victim of domestic abuse

Section 20: Child victims of domestic abuse

321 Section 20 amends the Domestic Abuse Act 2021 to establish that arrangements are in place in all police forces to ensure that all schools and other educational establishments a child might attend are notified where there are reasonable grounds to believe that the child may be a victim of domestic abuse, in order to provide appropriate support. The Domestic Abuse Act 2021 legally recognises children as victims of domestic abuse in their own right for the first time.

322 A duty on chief officers to ensure that arrangements are in place to make notifications is intended to motivate change as they can be held to account against them (via potential judicial review); to improve existing frontline practices, which would contribute to improving child safeguarding, and to enable early intervention and prevention of further domestic abuse. This section also provides a power to make regulations in the future to extend the organisations to which notifications can be made to include childcare providers.

323 This will ensure there is an obligation on chief officers of police to make sure that all forces are making notifications as soon as reasonably practicable, except in exceptional circumstances that will be set out in regulations subject to the negative procedure.

324 The decision to make a notification will require an assessment of whether the police member's suspicions are reasonable and if an exceptional circumstance applies. The amendment will be inserted into the Domestic Abuse Act 2021, ensuring that the definition of 'domestic abuse' and the obligations relating to guidance in the Domestic Abuse Act 2021 will apply.

325 In due course (following the making of regulations subject to the affirmative procedure) childcare providers may also receive notifications from the police in either England and Wales or in both jurisdictions, meaning that children of below school age would also be covered by the scheme.

Victim impact statements in the Mental Health Tribunal

Section 21: Victim impact statements to mental health tribunals (restricted patients)

326 Section 21 amends the Domestic Violence, Crime and Victims Act 2004 ("the DVCVA") to introduce entitlements for victims of offenders subject to hospital orders with restriction orders to: (a) make a victim impact statement to the Mental Health Tribunal ("MHT") or the Mental Health Review Tribunal for Wales ("MHRTW"); and, (b) be able to apply to attend a tribunal hearing that is due to take place to read their statement, an application which must be granted by the tribunal unless there are good reasons not to do so. The MHT operates in England and is part of the First-tier Tribunal. The MHRTW is the equivalent tribunal in Wales.

327 These entitlements are made effective by way of a new section inserted into Chapter 2 of the DVCVA, which at present contains entitlements for victims of certain offenders to make representations about certain matters and receive information in specified circumstances. Section 36 sets out entitlements for victims of offenders who are subject to hospitals orders (pursuant to s.37 of the Mental Health Act 1983, "the MHA") with or without restriction orders (which, if imposed, are done so pursuant to s.41 of the MHA). Section 37 contains further provision around the procedure for handling victim representations in cases where a restriction order is made. In this context, offenders are referred to as 'patients'.

328 The entitlements contained in section 37ZA will apply to victims where:

a. The relevant patient is charged with a sexual, violent or terrorism offence and one of the following categories applies:

   i. the patient is convicted of the offence;

   ii. a verdict is returned that the patient is not guilty of the offence by reason of insanity;

   iii. a finding is made— (i) under section 4 of the Criminal Procedure (Insanity) Act 1964 (c. 84) that the patient is under a disability, and (ii) under section 4A of that Act that he did the act or made the omission charged against him as the offence; (s.36(2)) and,

b. A hospital order with a restriction order is made in respect of the relevant patient. (s.37(1)).

c. An application referenced in section 37(5) (so under ss. 69, 70, 71 of 75 of the MHA) is made to the First-tier Tribunal (MHT) or the MHRTW.

329 In a case where the conditions above apply, the relevant probation body (as defined in s.37ZA(5)) must take all reasonable steps to ascertain whether the victim of the offence, or someone acting for them, wishes to make a victim impact statement (subsection (2)(a)).

‘Victim impact statement’ has the meaning given to it by subsection (5) and is a statement about the way in which, and degree to which, the offence has affected and/or continues to affect the victim or any other person. Where the victim or the person acting for them makes such a statement, the relevant probation body must forward it to the Tribunal (subsection (2)(b)).

330 Subsection (3) then creates an entitlement for the person who made a statement in the circumstances outlined above to ask permission to attend a relevant hearing to read the statement (subsection (3)(a)), and to have this permission granted by the tribunal unless they consider there are good reasons not to (subsection (3)(b)). ‘Requesting permission’ is intended as a reference to the relevant tribunal’s process for non-parties to apply to attend a hearing – for example, in the MHT, this is done pursuant to Rule 36(2) of The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008. ‘Relevant hearing’ is defined pursuant to subsection (5) and is intended to mean that this entitlement will only apply where a tribunal hearing is already due to take place, meaning one will not have to be convened especially for the victim to read their statement.

331 Subsection (4) sets out how the statement should be used by the Tribunal. They may have regard to it when determining a matter specified in section 36(5)(a) or (b) – i.e. where they are deciding whether to impose discharge conditions on a patient and, if so, what conditions. However, they must not have regard to it for any other purpose, including in relation to the discharge decision itself (to which only the factors in section 73 of the MHA should be relevant).

Victims’ Commissioner

Section 22: Commissioner for Victims and Witnesses

332 This section makes the following amendments to the Domestic Violence, Crime and Victims Act 2004 (the 2004 Act).

333 Subsection (2)(a) amends the Victim Commissioners’ statutory function under the section 49 of the 2004 Act to keep the operation of the Code under review to include the extent to which agencies under the duty in section 5(1) of the Act (duty to provide services in accordance with the Code) have complied with it.

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

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

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

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

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

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

Inspections by criminal justice inspectorates

Section 23: His Majesty's Chief Inspector of Prisons

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

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

Section 24: His Majesty's Chief Inspector of Constabulary

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

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

Section 25: His Majesty's Chief Inspector of the Crown Prosecution Service

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

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

Section 26: His Majesty's Chief Inspector of Probation for England and Wales

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

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

Parliamentary Commissioner for Administration

Section 27: Parliamentary Commissioner for Administration

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

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

348 Subsection (4) provides for complainants who claim that a duty under the Victims' Code has been breached or a person has failed to comply with a duty to victims under sections 35-44 of the Domestic Violence, Crime and Victims Act 2004, to go directly to the Commissioner, rather than going through a member of the House of Commons, where the complaint relates to their experience as a victim. Again, subsection (4) also provides for all other complaints to be referred to a member of the House of Commons in the usual way.

349 Subsection (5) provides for "victim" in the amended provisions to have the meaning given by section 1 of this Act.

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

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

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

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

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

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

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

Information relating to victims

Section 28: Information relating to victims

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

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

359 New section 44B requires the authorised person to provide the victims with a written notice that details what information is being sought, why it is being sought, and how the information will be dealt with once obtained when appropriate. The notice must be given on or before the date the request is made or, if that is not reasonably practicable, as soon as practicable after that date. Where the victim is a child or an adult without capacity, the notice must be given to their parent or guardian, or person representing the authority or organisation whose care they are in. If no such person is available, notice is to be given to any adult the authorised person considers appropriate.

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

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

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

Section 29: Information relating to victims: service police etc

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

Section 30: Review of provisions relating to counselling information requests

364 This section requires the Secretary of State to prepare a report about the operation, in the review period (being 3 years after the provisions are commenced), of the provisions of new Chapter 3A of the Police, Crime, Sentencing and Courts Act 2022 (i.e. new sections 44A to 44F relating to victim third party material requests), in relation to requests for counselling information (“counselling information requests). The Secretary of State may arrange for another person to prepare the report.

365 The report must be published and laid before parliament as soon as is reasonably practicable after the end of the review period (i.e. 3 years after the provisions are commenced). This will enable the effectiveness of the additional safeguards applicable to requests for counselling information to be reviewed.

Data Protection

Section 31: Right to erasure of personal data

366 This section amends Article 17 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 which provides data subjects with the right to request that data controllers erase their personal data. Article 17(1) specifies grounds under which data subjects can request erasure, and where the data controller is obliged to accept this request. Article 17(3) sets out circumstances when this right does not apply, and a data controller can refuse a request for erasure.

367 Subsection (2) inserts an additional ground under Article 17(1) which victims of harassment and stalking can use to request the erasure of personal data from a data controller. This new ground applies if the personal data held was a result of an allegation that was made by a malicious person in relation to the victim, and the data controller has investigated the allegation and has decided that no further action is needed. The exemption detailed in Article 17(3) will apply to this new ground.

368 Subsection (3) defines the term ‘malicious person’ as an individual who has either been convicted of a relevant offence in relation to the data subject or who is subject to a stalking protection order made to protect the victim. Subsection (3) also lists the relevant offences in an accompanying table and these offences cover stalking and harassment.

369 Subsection (4) amends the Data Protection Act 2018 to add in a new power for the Secretary of State to make regulations to amend the list of relevant offences set out in subsection (3). This regulation making power is subject to the affirmative resolution procedure.

Section 32: Data protection

370 This section makes it clear that nothing in this Part of the Act requires or authorises the processing of information if that processing would contravene the data protection legislation (where “data protection legislation” has the same meaning as in the Data Protection Act 2018).

Consequential provision for Part 1

Section 33: Consequential provision

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

Part 2: Victims of Major Incidents

Meaning of "major incident" etc.

Section 34: Meaning of "major incident" etc.

372 This section defines key terms for this Part of the Act including "major incident", "harm", "victims" and "advocate".

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

374 Subsection (3) requires the Secretary of State to consult with Welsh Ministers before declaring an incident that occurs in Wales to be a major incident.

Section 35: Appointment of a standing advocate

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

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

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

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

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

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

Appointment of advocates

Section 36: Appointment of advocates in respect of major incidents

381 This section provides for the appointment of an individual to act as an advocate for victims of a major incident. A reference to an advocate includes the standing advocate only if they have been appointed in respect of that incident.

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

383 The Secretary of State is required to consult with Welsh Ministers before appointing an advocate in respect of a major incident that occurs in Wales.

Section 37: Terms of appointment

384 This section provides for the terms of appointment of an advocate, which includes both the standing advocate appointed under Section 35 and an individual advocate appointed in respect of a major incident.

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

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

Section 38: Appointment of more than one advocate in respect of major incidents

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

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

Functions and powers of advocates in respect of major incidents

Section 39: Functions of advocates in respect of major incidents

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

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

Section 40: Role of advocates under Part 1 of the Coroners and Justice Act 2009

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

Functions and powers of advocates: general

Section 41: Reports to the Secretary of State

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

Section 42: Publication of reports

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

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

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

396 The Secretary of State can omit material from a report to be published following a major incident where the Secretary of State considers that publication of that material would prejudice certain investigations, inquiries or inquests

Section 43: Information sharing and data protection

397 This section provides for the sharing of information, by an advocate; and for the sharing of information with an advocate.

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

399 The section does not compel the sharing of information by, or with, an advocate.

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

Guidance for advocates

Section 44: Guidance for advocates

401 This section provides for the Secretary of State to issue guidance to advocates appointed in respect of a major incident, which an advocate must have regard to when exercising their functions.

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

Consequential amendments

Section 45: Consequential amendments

403 This section provides for the consequential amendments related to Part 2 of the Act to insert an advocate appointed by the Secretary of State into the following pieces of legislation:

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

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

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

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

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

Reviews

Section 46: Review of duty of candour in relation to major incidents

409 This section requires the Secretary of State or the Minister for the Cabinet Office to carry out a review to determine the extent to which additional duties of transparency and candour should be imposed on public servants in relation to major incidents. This section specifies that this must be carried out before 1 January 2025.

410 Subsection (2) allows the Secretary of State or the Minister for the Cabinet Office to arrange for another person to carry out the review.

411 Subsection (3) requires for a report to be prepared, published and lay before Parliament on the outcome of the review.

412 Subsection (4) clarifies what ‘public servant’ means for this section.

Section 47: Review of operation of Part 2

413 This section requires the Secretary of State to review the operation of Part 2 (the Independent Public Advocate) after 18 months of which the power in section 36(1) is used. This is the appointment of an advocate in respect of a major incident and when the advocate is first stood up in response to a major incident.

414 This section requires a report to be produced on this review and laid before Parliament.

Part 3: Infected Blood Compensation Body

Section 48: Infected Blood Compensation Authority

415 This section establishes a new arm’s length body called the Infected Blood Compensation Authority (IBCA); for which further provisions as to the body’s constitution and powers are set out in Schedule 1.

Section 49: Infected blood compensation scheme

416 Subsection (1) imposes a duty on the Secretary of State or the Minister for Cabinet Office to establish, by regulations made within three months of Royal Assent, an 'infected blood compensation scheme' to deliver payments to eligible claimants.

417 Subsection (2) provides for the regulations to determine who is eligible for compensation, within the categories of persons laid out in subsection (3).

418 Subsection (3) establishes a framework within which eligibility is to be set, identifying three distinct categories, being (a) those who have been **directly infected** as a result of being treated with contaminated blood/products, (b) those who were **secondarily infected** as a result of someone being treated with contaminated blood/products (such as via sexual transmission or child in utero) and (c) those who have been **affected** by another person being directly or secondarily infected.

419 Subsection (4) sets out a non-exhaustive list of potential factors which the regulations may refer to in determining eligibility, including the type of infection, when it occurred and who gave the treatment. For secondarily infected claimants, it may include consideration of how the person was infected and their connection with the person who was treated, as per subsection (4)(f). For affected claimants, it may include consideration of how the person has been affected and their connection with the person who has been infected, as per subsection (4)(g).

420 Subsection (5) requires that the regulations provide that the payments owing under the scheme are to be administered by the IBCA.

Section 50: Payments

421 Subsection (1) provides that the amount of compensation to be delivered by the IBCA will be determined via the compensation scheme regulations. This includes the ability to make payments of either a specified amount, within a range or to a set maximum award, per subsection (2).

422 Subsection (3) allows the regulations to determine how payments are delivered to eligible persons, whether as a lump sum or periodically, made on trust for others, for interest to be payable or uplifts to be made (for instance linked to inflation).

423 Subsections (4) to (6) include powers to apply conditions to compensation payments and to arrange for the repayment of sums to the IBCA in circumstances to be set in future regulations (e.g. overpayment due to fraud).

Section 51: Applications and procedure

424 This section provides that regulations (secondary legislation) concerning the new compensation scheme may make provisions about the procedure to be adopted by the ICBA for the making and handling of claims. This can include time limits and evidential requirements.

Section 52: Reviews and Appeals

425 This section provides that the regulations may make provisions setting out the compensation scheme reviews and appeals procedure, including an ability for the IBCA to review decisions taken under the scheme. It is a requirement that the scheme must include a right for applicants to appeal scheme decisions to the First-tier tribunal (FTT), but if the regulations

allow the IBCA to review decisions, they may also make provision that the right to appeal to the FTT cannot be exercisable unless the IBCA have first reviewed the decision (for instance by way of an internal appeals process to be exhausted before the right to appeal arises).

Section 53: Information: infected blood compensation scheme

426 This section provides a power for the IBCA to disclose information, including personal data, to any third parties and for third parties to disclose information to the IBCA, as needed to support the administration of the scheme. Any such sharing authorised under this section is required to comply with all data protection legislation to safeguard applicants' personal data.

427 Should it need to, and after having unsuccessfully issued a written notice requiring the same, the IBCA may obtain a court order to compel information or the production of documentation from any person, subject to this being required in relation to the administration of the scheme.

Section 54: Duty to co-operate with the IBCA

428 This section sets out a requirement for the bodies listed in subsection (2) to co-operate with the IBCA as required for the purpose of delivering the compensation payments. The relevant bodies include the Secretary of State and Minister for the Cabinet Office; the Welsh and Scottish Ministers and Department of Health in Northern Ireland; and NHS Act Special Health Authorities and their devolved counterparts. The latter captures the administrators of the IBSS who have specialist knowledge of providing support to victims of infected blood and hold data on the scheme beneficiaries. The section includes a provision that the Secretary of State or Minister for the Cabinet Office may make regulations to add any other persons to this list should cooperation of further third parties be required, but shall require the consent of the Welsh and Scottish Ministers and Department of Health in Northern Ireland should Welsh, Scottish or Northern Ireland bodies be sought to be added.

Section 55: Provision of support and assistance

429 This section provides that the Secretary of State or Minister for the Cabinet Office may make arrangements to provide support and assistance to either scheme applicants, or potential applicants to the scheme, whether by the IBCA or a third party.

Section 56: Payments to personal representatives of qualifying infected persons

430 The Secretary of State or Minister for the Cabinet Office is required to arrange for a payment of £100,000 to be paid to the personal representatives of deceased persons who were registered with a relevant support scheme, as defined, and who had not previously received a payment under the Infected Blood Interim Compensation Payment Scheme.

431 A power is also provided for the Secretary of State or Minister for the Cabinet Office to make regulations to amend or repeal this section as needed.

Section 57: Information: payments to personal representatives

432 On the basis that the payments to personal representatives, as per Section 56, will be made ahead of the establishment of the IBCS, by the Secretary of State, Minister for the Cabinet Office, or someone on their behalf, this section enables third parties to provide information to the Secretary of State, Minister for the Cabinet Office or such administering party, for the purpose of delivering the payments. Any such sharing authorised under this section is required to comply with all data protection legislation to safeguard applicants' personal data.

Part 4: Prisoners

Public protection decisions

Section 58: Public protection decisions: life prisoners

433 Section 58 amends Chapter 2 of Part 2 of the 1997 Act to clarify the meaning and application of the existing statutory release test in the case of a life sentenced prisoner.

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

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

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

c. where the High Court is considering a case that has been referred to it by the Parole Board at the direction of the Secretary of State.

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

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

437 Subsection (4) relates to the offences that are presumed to cause serious harm. Schedule 18B, which is inserted into the 2003 Act by subsection (9) of section 59, provides for offences which are considered under the criminal justice regime to be serious in nature, for which offenders must or may currently receive serious or restrictive sentencing and release measures. This list turns a decision-maker's mind to the types of offences which may be sufficient to meet the threshold of serious harm in the release test, should the decision-maker consider that the offender poses a risk of committing that offence. This deeming provision allows the decision-maker to take the circumstance of the case into account when deciding if commission of the offence would truly cause serious harm. It also does not preclude the decision-maker from considering other offences which may cause serious harm, which are not contained in the list, when determining if the offender should be released or not. New section 237A(13), and Section 59(8), enables this list to be amended by affirmative order.

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

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

440 Section 58 (3) and (4) ensure that the new meaning and application applying to public protection decisions is referenced and applies in sections 28A and 28B of the 1997 Act, which govern the release of offenders who have committed murder, manslaughter or indecent image offences and have not provided information about their victims.

441 Section 58(5) applies the new public protection to the new executive re-release power for Imprisonment for Public Protection sentences set out in in Section 66(5)

Section 59: Public protection decisions: fixed-term prisoners

442 Section 59 provides for the same changes as Section 55 for fixed term (determinate) sentenced offenders released pursuant to Chapter 6 of Part 12 of the 2003 Act by inserting new sections 237A and 237B into the 2003 Act and making consequential changes. The operation of this section is the same as Section 58, adjusted to the different provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

445 Section 59(3) and (4) ensure that the new meaning and application applying to public protection decisions is referenced and applies in sections 246B and 246C of the 2003 Act, which govern the release of extended determinate sentenced offenders who have committed manslaughter or indecent image offences and have not provided information about their victims.

446 Section 59(5) and (6) apply the new public protection threshold in cases where the Secretary of State is deciding whether or not to discretionarily release different categories of recalled determinate offenders (known as executive re-release). The new public protection test applies, but not the list of mandatory considerations, as these are specific executive decisions where different considerations may apply.

447 Section 59(7) amends section 256AZB, which is the power to change the test for re-release following recall by secondary legislation. It makes provision to clarify that the existing consequential power can be used to amend and modify the release test to be applied by the High Court in making release decisions following referrals.

448 Section 59(10) to (12) provide for the new public protection application and meaning to apply to the transitional cases where prisoners have committed manslaughter or indecent image offences, but have not provided information about their victims, in Schedule 20B of the 2003 Act.

Section 60: Amendment of power to change test for release on licence of certain prisoners

449 Section 60 amends section 128 of LASPO which allows for all parole release test provisions in Chapter 6 of Part 12 of the 2003 Act to be altered by secondary legislation. Section 60(2) adds the new statutory release test provisions into section 128(3) so they may be amended by affirmative order. Section 60(3) makes provision to clarify that the existing consequential power in section 128 can be used to amend and modify the application of the release test to be applied by the High Court in taking release decisions following referrals.

Referral of release decisions

Section 61: Referral of release decisions: life prisoners

450 Section 61 amends the Crime (Sentences) Act 1997 to create a 'top-tier' cohort of life-sentenced offenders. The Secretary of State can direct the Parole Board to refer a case concerning top-tier offenders to the High Court to determine release, following a release decision from the Board.

451 Section 61 inserts new sections 32ZAA, 32ZAB and 32ZAC into Part 2 of the 1997 Act.

452 New section 32ZAA applies where a life sentenced prisoner is having a parole review under section 28 or 32 of the 1997 Act, relating to the sentence imposed for a 'top tier' offence defined in new section 32ZAB. These offences are murder, rape, serious terrorism or terrorism connected offences, and causing or allowing the death of a child. They include the Northern Irish and Scottish equivalents of the offences, to capture offenders who are convicted in the devolved administrations but transferred to England and Wales to serve their sentence. Equivalent service offences are also included. Some of the 'top-tier' offences do not carry a

maximum penalty of life; however, owing to the historic availability of the IPP sentence for all these offences, they are included in this addition to the 1997 Act so as to ensure IPPs who have committed these offences who are being considered for release are treated consistently with those serving life sentences.

453 Subsections (1) and (2) provide that where the Parole Board directs the release of a prisoner in the top-tier cohort, the Secretary of State may then direct the Parole Board to refer the prisoner's case to the High Court for review where the release of the prisoner would be likely to undermine public confidence in the parole system and where the Secretary of State considers that, if the case were referred, the High Court may not conclude that the release test has been met.

454 Subsection (3) provides that the Secretary of State's duty to release the prisoner is suspended for the time reasonably required to decide whether to refer the case to the High Court, and while the High Court make a decision.

455 Subsection (4) provides that the Secretary of State must notify the prisoner of the direction and the reasons for giving it.

456 Subsections (5) and (6) clarify that this section applies to all relevant prisoners, including those currently serving sentences, but not including those who have already had a release decision from the Board before this section comes into force.

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

458 New section 32ZAC(3) means that the date of an order quashing the Board's direction is to be treated as the date on which the Board disposed of the case, for the purposes of calculating the prisoner's next parole referral. This provides that, following an order for release by the High Court, the Secretary of State need only give effect to that order as soon as reasonably practicable in all the circumstances, in line with the same practicability requirement applied to Parole Board release decisions, to ensure provision such as accommodation is in place, so as to safely release offenders.

Section 62: Referral of release decisions: fixed-term prisoners

459 Section 62 provides for the same changes as Section 61, for fixed term (determinate) sentenced offenders released pursuant to Chapter 6 of Part 12 of the 2003 Act by inserting new sections 256AZBA, 256AZBB and 256AZBC into Chapter 6 of Part 12 of the 2003 Act, and making consequential changes. The operation of this section is the same as Section 61, adjusted to the different provisions.

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

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

462 Section 62(2) clarifies that, where the release decision is that of the High Court rather than the Parole Board, the requirement for the Secretary of State to release as soon as reasonably practicable provided for in section 256AZC applies.

Licence conditions on release following referral

Section 63: Licence conditions of life prisoners released following referral

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

Section 64: Licence conditions of fixed-term prisoners released following referral

464 Section 64 amends section 250 of the 2003 Act, which prescribes responsibility for setting and varying licence conditions for fixed-term prisoners, on initial release from prison and subsequently in the community. The changes ensure that, on first release following a direction to release by the High Court, the Secretary of State must include only those bespoke conditions directed by the High Court in the offender's licence under new section 256AZBC(2), consistent with the existing provisions on Board release, but then may subsequently vary and cancel those conditions as part of the offender's management in the community.

Section 65: Assessing etc. risks posed by controlling or coercive offenders

465 This section makes amendments to the multi-agency public protection arrangements (MAPPA) regime set out in sections 325 to 327 of the Criminal Justice Act 2003. This ensures automatic MAPPA management of individuals convicted of controlling or coercive behaviour in an intimate or family relationship, who are sentenced to 12 months' imprisonment or more or receive a suspended sentence where the custodial term is 12 months or more. Currently, they can be MAPPA managed on a discretionary basis.

466 This section amends s. 327(4A) of the Criminal Justice Act 2003 by adding the offence of controlling or coercive behaviour in an intimate or family relationship as defined in section 76 of the Serious Crime Act 2015 to the list of offences contained within it.

Imprisonment or detention for public protection

Section 66: Imprisonment or detention for public protection

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

468 This section gives the Secretary of State the power to insert licence conditions on a prisoner where the Secretary of State makes a release decision under new section 32ZZA.

469 This section changes the qualifying period for an offender who has been released on licence to have their licence considered for termination by the Parole Board from ten years after first release to three years for those serving an IPP sentence. The qualifying period for those convicted when under the age of 18 is changed to two years. The qualifying period counts from the first release from prison and does not reset if an offender is recalled to prison.

470 The section defines the term preventative sentence and qualifying period.

471 This section amends the power to alter the qualifying period by regulations so that both the 3 year qualifying period for IPP's and the two years for DPP's can be amended.

472 This section enables the Secretary of State, when the Parole Board directs the re-release of a preventive sentence prisoner who is recalled to prison, to disregard the revocation of the prisoner's licence for the purposes of automatic licence termination.

473 This section creates a power for the Secretary of State to release a recalled IPP or DPP offender following Risk Assessed Recall Review. The Secretary of State can only release a recalled IPP or DPP Offender where satisfied that it is no longer necessary for the protection of the public that they should remain in prison, which is the same test applied by the Parole Board. Re-release from recall by the Secretary of State under this power, or by the Parole Board will reset the automatic period. These amendments also introduce a power for the Secretary of State to disregard the recall of a IPP or DPP offender for the purpose of the automatic period, so as to not disrupt the two year automatic period.

474 This section applies the new public protection test to the executive re-release power for Imprisonment for Public Protection sentences.

Section 67: Imprisonment or detention for public protection: annual report

475 This section requires the Secretary of State to prepare and publish a report about the steps taken in the reporting period to support the rehabilitation of IPP prisoners and their progress towards release from prison or licence termination. Subsection (1)(b) requires this report to be laid before Parliament.

476 Subsection (2)(a) defines 'release from prison' and subsection (2)(b) defines 'licence termination'.

477 Subsection (3) requires that the report must specifically address the steps taking in relation to IPP and DPP offenders who are female (subsection (3)(a)) and DPP offenders (subsection (3)(b)).

478 Subsection (4) requires that the Secretary of State sets out who has been consulted in the reporting period in relation to the steps taken on the rehabilitation and progress of preventive sentence prisoners.

Home Detention Curfew

Section 68: Extension of home detention curfew

479 This section provides for an extension of which offenders are eligible for home detention curfews.

480 Subsection (1) introduces that amendments will be made to section 246 (release of prisoners on licence before required to do so) of the CJA 2003.

481 Subsection (2) amends existing section 246(1), which sets out that prisoners eligible for HDC must be serving a fixed term sentence (i.e., one that has an automatic release date). The amendment provides that prisoners serving certain fixed term sentences are excluded from HDC. This is so HDC will only apply to those sentences with automatic half-way release. Those subject to the following release provisions are excluded:

a. sentences for specified serious sexual or violent offences subject to the release provisions of section 244ZA of the CJA 2003 (automatic release at the two thirds point of the sentences, rather than at halfway);

b. sentences for offenders of particular concern imposed under section 236A of the CJA 2003 (or section 265 or 278 of the Sentencing Code) subject to release under section 244A of the CJA 2003;

c. extended sentences imposed under section 226A or 226B of the CJA 2003 (or section 254, 266 or 279 of the Sentencing Code) subject to release under section 246A of the CJA;

d. extended sentences imposed under section 227 or 228 of the CJA 2003 subject to release under section 247 of the CJA;

e. sentences for an offence described in section 247A(2) of the CJA 2003 (specified terrorist or terrorist connected offences) subject to the release provisions of that section;

f. sentences of four years or more subject to the release provisions under paragraph 4 of Schedule 20B of the CJA 2003 (previously Criminal Justice Act 1991); and

g. sentences of 12 months or more subject to the release provisions under paragraph 24 of Schedule 20B of the CJA 2003 (imposed under the Criminal Justice Act 1967).

482 Subsection (3)(a) amends existing subsection section 246(4) to remove the exclusion from HDC of prisoners serving sentences of 4 years or more and removes existing sentence types that are now excluded from HDC by virtue of subsection (2) of this section. 134 Subsection (3)(b) amends section 246(4) in order to exclude from HDC prisoners serving sentences for specified serious sexual or violent offences that would have been subject to the release provisions of section 244ZA of the CJA 2003 (automatic release at the two thirds point of the sentences, rather than at halfway) if they had been imposed after those provisions came into effect. Those subject to these release provisions (not otherwise excluded, for instance those subject to notification for sexual offences) became eligible by the removal of the four year exclusion. This amendment provides parity with the exclusion of those offenders now subject to the release provisions of section 244ZA.

483 Subsection (3)(c) amends existing subsection (4)(g) of Section 246, to limit the exclusion from HDC of any prisoner who has previously been recalled to custody under section 255(1)(a) of the CJA 2003 for having breached the curfew conditions of HDC during their current sentence.

484 Subsection (3)(d) substitutes section 246 (4)(ga), which excludes from HDC any prisoner who has "at any time" previously been recalled to custody under section 38A(1)(a) of the Criminal Justice Act 1991 for having breached the curfew conditions of HDC. In its place are inserted new subsections (4)(ga) and (gb). The combined effect of these new subsections is to replace the current exclusion which applies to those recalled for HDC curfew breach at any time

previously, i.e., back to 1999 when HDC was first introduced, with an exclusion that applies only where they were still serving the recall at any point during the two years immediately prior to the start of the current sentence.

485 Subsection (3)(e) removes existing section 246(4)(ha), which excludes from HDC anyone who has ever been returned to custody by the court under section 40 of the Criminal Justice Act 1991 or section 116 of the Powers of Criminal Courts (Sentencing) 2000. Under these provisions, which only applied to sentences governed by the release provisions of the Criminal Justice Act 1991 and were repealed in 2012, if a person committed a further imprisonable offence between the end of their release licence and the end of the sentence (known as the "at risk period"), the courts could return them to prison to serve a term of imprisonment that was equal to the period between the date of the new offence and the end of the sentence.

486 Subsection (4) removes section 246(4)(ZA), which sets out how to treat consecutive or concurrent sentences in determining whether the prisoner was serving a term of 4 years or more and would therefore be excluded from HDC by virtue of existing section 246(4)(aa). This will now be redundant as subsection (4)(aa) has been removed by subsection (2) of this section, those serving sentences of 4 years or more will now be eligible for HDC.

Application of Convention rights

Section 69: Section 3 of the Human Rights Act 1998: life prisoners

Section 70: Section 3 of the Human Rights Act 1998: fixed term prisoners

Section 71: Section 3 of the Human Rights Act 1998: powers to change release test

487 Sections 69, 70 and 71 section 3 of the Human Rights Act 1998 (HRA) in relation to Chapter 2 of Part 2 of the 1997 Act, Chapter 6 of Part 12 of the 2003 Act, section 128 of LASPO, and all secondary legislation made under these provisions ('the release legislation'). These provisions span the legislative framework in England and Wales relating to release, licences, supervision, and recall of indeterminate and determinate sentenced offenders.

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

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

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

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

Section 72: Application of certain convention rights in prisoner release cases

492 Section 72 sets out the approach courts should take when considering a decision that has been made concerning the release of a prisoner and where that decision has been challenged on human rights grounds.

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

The Parole Board

Section 73: Parole Board rules

494 Section 73(2) amends the power in section 239(5) of the 2003 Act to make procedural rules about how the Board conducts proceedings (the Parole Board Rules) to add the power to prescribe via the Rules that parole cases to be dealt with by Parole Board members with particular skills or experience.

495 Subsection (3) allows the Secretary of State to make Parole Board Rules that will allow the delegation of functions usually exercised by Board members (including some judicial functions) to employees of the Board secretariat. The power cannot be used to make provision for staff to decide whether to release a prisoner; whether to terminate the licence of an IPP or DPP prisoner's licence; or whether to reconsider or set aside a decision.

Section 74: Parole Board membership

496 Section 74 amends paragraph 2 of Schedule 19 of the 2003 Act which deals with membership of the Parole Board. It adds a member with law enforcement experience (defined as the "prevention, detection or investigation of offences") to the statutory membership of the Board.

Whole life prisoners prohibited from forming a marriage or civil partnership

Section 75: Whole life prisoners prohibited from forming a marriage

497 Section 75(1) amends the Marriage Act 1949 by inserting a new section to prohibit whole life prisoners from marrying unless they have permission from the Secretary of State.

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

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

500 Secondly, they must be subject to either:

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

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

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

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

Section 76: Whole life prisoners prohibited from a forming a civil partnership

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

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

503 The other provisions of this section replicate provisions set out in section 75 as to the exemptions process and prisoners in scope.

Part 5: General

Section 77: Financial provision

504 Section 77 recognises that as a matter of House of Commons procedure, a financial resolution needed to be agreed for the Bill from which the Act resulted."

Section 78: Power to make a consequential provision

505 Subsection (1) creates a power for the Secretary of State to make any consequential amendments that may be required to existing law to ensure consistency in the statute book and operability of these provisions contained in Parts 1, 2 or 4 of this Act.

Section 79: Regulations

506 Section 79 sets out that regulations made under the powers in the Act will be made by statutory instrument and may make different provision for different purposes. This may include provisions that are supplementary, incidental, saving or transitional.

507 Subsection (3) provides for the affirmative parliamentary procedure to apply to regulations made under section 17 (disclosures by victims that cannot be precluded by agreement).

508 Subsections (4) – (11) and (14)- (20) relate to Part 3 of the Act. These create a power to make consequential amendments via regulations, conferred on the Secretary of State and their counterparts for each of the devolved administrations, to the extent it is within their respective legislative competence.

509 These regulations apply to authorise any changes, or revocation of any provisions made within, or resulting from, primary legislation. This power extends to previous, made legislation, and equally allows amendments to be made to legislation postdating the making of these provisions.

510 Subsection (12) provides for the affirmative parliamentary procedure to apply to regulations made under section 78 (1) or (2) (consequential provision) if those regulations amend, repeal or revoke primary legislation.

511 Subsections (13) and (21) provide for the negative parliamentary procedure to apply to any other regulations made under powers in the Act, excluding regulations provided for in section 79 regarding commencement and transitional provisions for the Act, which are not subject to parliamentary procedure.

Section 80: Extent

512 Section 80 sets out that the measures in the Act extend to England and Wales with the following exceptions:

513 Section 19 (Domestic abuse related death reviews) which extends to England and Wales and Northern Ireland;

514 Sections 27 and 33(3) – which amend the Parliamentary Commissioner Act 1967 and have the same extent as that Act;

515 Section 28 (information relating to victims: service police etc.) extends to England and Wales, Scotland and Northern Ireland;

516 Section 45 (1) – (4) (Part 2: consequential amendments) extend to England and Wales, Scotland and Northern Ireland. Subsection (5) of that section extends to England and Wales and Scotland;

517 Part 3 (Infected Blood Compensation Body) extends to England and Wales, Scotland and Northern Ireland. Subsection (5) provides for any of the provisions of Part 3 to be extended, with or without modifications, via Order in Council to any of the Channel Islands, the Isle of Man, Gibraltar or the Falkland Islands; and

518 Part 5 (General) extends to England and Wales, Scotland and Northern Ireland.

Section 81: Commencement

519 Subsection (1) provides that Parts 3 (infected blood compensation body) and 5 (general) will come into force on the day on which the Act is passed.

520 Subsection (2) provides that all of the other provisions in the Act will come into force on such day as the Secretary of State appoints via regulations.

521 Section 79 also provides for the Secretary of State to make transitional or saving provision by way of regulations. Regulations for this purpose may make different provision for different purposes and will be made by statutory instrument.

Section 82: Short title

522 This section provides that the Act may be cited as the Victims and Prisoners Act 2024

Schedules

Schedule 1: Infected Blood Compensation Authority

Part 1 - Constitution

523 Part 1 of the Schedule provides for the Infected Blood Compensation Authority's (IBCA) governance arrangements. It includes details of the membership of the ICBA and the process for appointments, including the appointment of the Chair, and sets out the IBCA's financial and reporting obligations.

Membership

524 The IBCA is to consist of between three and six executive members including a Chief Executive, and between four and seven non-executive members including the Chair, who will together form the IBCA Board. Therefore the minimum number on the IBCA board will be 7, with a maximum of 13. The IBCA must seek to ensure they have more non-executive than executive members, as far as this is practicable.

Appointment of non-executive members

525 The Chair will be appointed by the Secretary of State or the Minister for the Cabinet Office, as will the following three appointments of non-executives, with any subsequent appointments made by the Chair. It is a requirement that staff of the IBCA may not hold a non-executive post.

Appointment of executive members

526 The executive members are to be appointed by the Chair, except for the interim Chief Executive as set out below. The executive members will be members of the IBCA's staff.

Appointment of members: eligibility

527 The Secretary of State or Minister for the Cabinet Office, through secondary legislation, can set criteria which subsequent members of the IBCA would have to meet before being appointed. These regulations can provide that someone must cease to be a member of the IBCA if they no longer meet this criteria.

Terms of membership

528 This provides that the terms of employment for IBCA members will be in accordance with the terms of their appointment, i.e. as per any contractual agreement, however such terms must be read subject to the provisions of the Schedule.

529 Further provisions are set out relating to members vacating office, including resignation and becoming a member of the IBCA's staff. An IBCA member may be removed from office by the Chair, and the Chair may be removed by the Secretary of State or Minister for the Cabinet Office.

Non-executive members: payments

530 The IBCA is required to arrange for the payment of any non-executive member appointed by the Chair, to include remuneration, pensions, allowances or gratuities, as determined by the Chair. Where the non-executive member was appointed by the Secretary of State or Minister for the Cabinet Office, the IBCA must arrange for their payment as determined by the Secretary of State or the Minister for the Cabinet Office.

Staffing

531 The IBCA is required to employ staff on such pay, terms and conditions as it may determine, subject to the approval of the Secretary of State or Minister for the Cabinet Office as to the policy on remuneration and ancillary payment provisions.

Interim chief executive

532 An initial interim chief executive may be appointed by the Secretary of State or the Minister for the Cabinet Office, until the substantive chief executive is appointed by the Chair. The interim chief executive is able to incur expenditure and has the authority to take action in the name of, and on behalf of, the IBCA.

Committees and sub-committees

533 The IBCA can appoint committees and sub-committees as it considers necessary. Such committees may consist of either IBCA staff or otherwise. Where a member of a committee is not an existing IBCA staff member, the IBCA can elect to pay them remuneration or any other allowances, as appropriate.

Procedure

534 The IBCA is able to determine its own procedures and the procedures of any committee or sub-committee. The validity of any proceedings of the IBCA or its committees will not be affected by any membership vacancies.

Exercise of functions

535 The IBCA must exercise the functions conferred on it effectively, efficiently and economically, placing the IBCA under the same duty of economy and efficiency as other public bodies in the health service. The IBCA can delegate authority to carry out its functions to any of its members, any of its committees or any authorised member of its staff.

Funding

536 The Secretary of State or the Minister for the Cabinet Office must fund the IBCA as is needed to compensate the beneficiaries of the compensation scheme. They must also pay any other sums as reasonably required for the IBCA to operate effectively, which may be made subject to conditions.

537 The Secretary of State or the Minister for the Cabinet Office may also make regulations imposing conditions on the IBCA's use of any repayments it receives under section 50(5) claw back provisions.

Annual report

538 The IBCA must publish an annual report on how it has exercised its functions, to be sent to the Secretary of State or the Minister for the Cabinet Office, who must in turn lay the same before Parliament.

Accounts and audit

539 The IBCA is required to keep proper accounts and prepare a statement of accounts in each financial year. It is required to prepare these accounts in the form, with the content, and using methods and principles, determined by the Secretary of State or the Minister for the Cabinet Office. The IBCA must send its annual accounts to the Secretary of State or the Minister for the Cabinet Office and the Comptroller and Auditor General as soon as is practicable at the end of the relevant year. The Comptroller and Auditor General is responsible for examining, certifying and reporting on the accounts and for laying copies of the audited accounts (and his report on them) to the Secretary of State to be laid before Parliament.

Provision of information

540 The Secretary of State or the Minister for the Cabinet Office may require the IBCA to furnish information concerning its functions, and the IBCA is required to provide the same, on request.

Status

541 The IBCA and its members and employees are not to be regarded as servants or agents of the Crown, nor civil servants, and will not enjoy any status, immunity or privilege of the Crown. The IBCA's property will not be regarded as property of, or property held on behalf of, the Crown.

Seal and evidence

542 The IBCA's seal must be countersigned by any member of the IBCA or any other person authorised for that purpose for it to be authenticated. Any documents which appear to have been correctly executed on behalf of the IBCA will be considered as executed by the IBCA, unless proven otherwise.

543 These terms will not apply to any documents which require specific execution as per the law of Scotland, which will not be deemed as executed by virtue of compliance with this provision.

Supplementary powers

544 The IBCA is conferred with ancillary powers to take any actions it considers necessary, subject to such action being in connection with its functions.

Part 2 - Transfer schemes

Power to make transfer schemes

545 The Secretary of State may make one or more transfer schemes in connection with the transfer of property, rights and liabilities of a relevant person or body so as to allow the ICBA to carry out its functions, as the Secretary of State or the Minister for the Cabinet Office consider appropriate. Further limitations are included as to who constitutes a "relevant person", what may be transferred and what the transfer scheme may provide for are included within these provisions.

Tax treatment of transfer schemes

546 The Treasury are given a power to make regulations to vary the tax position for the transfer schemes, including providing that tax may not apply, or the standard tax position may be modified.

Part 3 – Amendments

547 This Part provides for consequential amendments to other legislation required as a result of the Infected Blood provisions of the Act, meaning these various enactments to apply in relation to the IBCA.

548 Schedule 1 to the Public Records Act 1958: This will place obligations on the IBCA to properly protect and preserve records;

549 Schedule to the Public Bodies (Admission to Meetings) Act 1960: This adds the IBCA to the list of public bodies whose meetings must be open to the public, subject to the terms and exceptions of the Act;

550 Schedule 2 to the Parliamentary Commissioner Act 1967: This brings the IBCA under the remit of the Commissioner and allows for complaints to be made and investigated, adding a further layer of accountability;

551 Schedule 1 of the House of Commons Disqualification Act 1975: This prohibits any sitting MPs from membership to the IBCA board, or disqualifies members of the board from being a sitting MP;

552 Schedule 1 of the Northern Ireland Assembly Disqualification Act 1975: This similarly disqualifies any sitting members of the IBCA board from membership of the Northern Ireland Assembly;

553 Schedule 1 of the Freedom of Information Act 2000: This puts the IBCA in scope of freedom of information requests and oversight by the Information Commissioner; and

554 Schedule 19 to the Equality Act 2010: The public sector equality duty in section 149 will apply to the IBCA. This duty applies to public bodies listed in Schedule 19 of the Act, under which the heading "Health, Social care and social security" is amended to include the IBCA.

Commencement

555 The provisions in this Act will come into force by regulations made on a day appointed by the Secretary of State, apart from Parts 3 and 5 of the Act which came into force on the day on which the Act is passed.

Financial implications of the Act

556 Impact Assessments have been prepared for each part of the Act and cover the implications on bodies and organisations which derive from this Act.

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

Annex A – Hansard References

558 The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard Reference
House of Commons		
Introduction	29 March 2023	Victims and Prisoners Act 2024 1st reading - Parliamentary Bills - UK Parliament
Second Reading	15 May 2023	Victims and Prisoners Bill - Hansard - UK Parliament
Public Bill Committee 1st sitting	20 June 2023	Victims and Prisoners Bill (First sitting) - Hansard - UK Parliament
Public Bill Committee 2nd sitting	20 June 2023	Victims and Prisoners Bill (Second sitting) - Hansard - UK Parliament
Public Bill Committee 3rd sitting	22 June 2023	Victims and Prisoners Bill (Third sitting) - Hansard - UK Parliament
Public Bill Committee 4th sitting	22 June 2023	Victims and Prisoners Bill (Fourth sitting) - Hansard - UK Parliament
Public Bill Committee 5th sitting	27 June 2023	Victims and Prisoners Bill (Fifth sitting) - Hansard - UK Parliament
Public Bill Committee 6th sitting	27 June 2023	Victims and Prisoners Bill (Sixth sitting) - Hansard - UK Parliament
Public Bill Committee 7th sitting	29 June 2023	Victims and Prisoners Bill (Seventh sitting) - Hansard - UK Parliament
Public Bill Committee 8th sitting	29 June 2023	Victims and Prisoners Bill (Eighth sitting) - Hansard - UK Parliament
Public Bill Committee 9th sitting	5 July 2023	Victims and Prisoners Bill (Ninth sitting) - Hansard - UK Parliament
Public Bill Committee 10th sitting	5 July 2023	Victims and Prisoners Bill (Tenth sitting) - Hansard - UK Parliament
Public Bill Committee 11th sitting	6 July 2023	Victims and Prisoners Bill (Eleventh sitting) - Hansard - UK Parliament
Public Bill Committee 12th sitting	6 July 2023	Victims and Prisoners Bill (Twelfth sitting) - Hansard - UK Parliament
Public Bill Committee 13th sitting	11 July 2023	Victims and Prisoners Bill (Thirteenth sitting) - Hansard - UK Parliament
Public Bill Committee 14th sitting	11 July 2023	Victims and Prisoners Bill (Fourteenth sitting) - Hansard - UK Parliament
Report	4 December 2023	Victims and Prisoners Bill - Hansard - UK Parliament
Third Reading	4 December 2023	Victims and Prisoners Bill - Hansard - UK Parliament

Stage	Date	Hansard Reference
House of Lords		
Introduction	6 December 2023	Victims and Prisoners Bill - Hansard - UK Parliament
Second Reading	18 December 2023	Victims and Prisoners Bill - Hansard - UK Parliament
Committee	24 January 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Committee	31 January 2024	Victims and Prisoners Bill - Hansard - UK Parliament Victims and Prisoners Bill - Hansard - UK Parliament
Committee	5 February 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Committee	7 February 2024	Victims and Prisoners Bill - Hansard - UK Parliament Victims and Prisoners Bill - Hansard - UK Parliament
Committee	13 February 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Committee	26 February 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Committee	12 March 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Committee	25 March 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Report	16 April 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Report	23 April 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Report	30 April 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Report	21 May 2024	Victims and Prisoners Bill - Hansard - UK Parliament Victims and Prisoners Bill - Hansard - UK Parliament
Third Reading	23 May 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Commons Consideration of Lords Amendments	24 May 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Lords Consideration of Commons Amendments	24 May 2024	Victims and Prisoners Bill - Hansard - UK Parliament
Royal Assent	24 May 2024	Royal Assent - Hansard - UK Parliament

Annex B – Progress of Bill Table

559 This Annex shows how each section of this Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended on report in the Lords
Section 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 3	Clause 3	Clause 3	Clause 3
Section 4	Clause 4	Clause 4	Clause 4	Clause 4
Section 5	Clause 5	Clause 5	Clause 5	Clause 5
Section 6	Clause 6	Clause 6	Clause 6	Clause 6
Section 7				Clause 7
Section 8	Clause 7	Clause 7	Clause 7	Clause 8
Section 9	Clause 8	Clause 8	Clause 8	Clause 9
Section 10	Clause 9	Clause 9	Clause 9	Clause 10
Section 11				Clause 11
Section 12	Clause 11	Clause 11	Clause 11	Clause 12
Section 13	Clause 12	Clause 12	Clause 12	Clause 15
Section 14	Clause 13	Clause 13	Clause 13	Clause 16
Section 15	Clause 14	Clause 14	Clause 14	Clause 17
Section 16	Clause 15	Clause 15	Clause 15	Clause 18
Section 17				Clause 19
Section 18			Clause 16	Clause 20
Section 19			Clause 17	Clause 21
Section 20				Clause 32
Section 21				Clause 22
Section 22	Clause 16	Clause 16	Clause 18	Clause 23
Section 23	Clause 17	Clause 17	Clause 19	Clause 24
Section 24	Clause 18	Clause 18	Clause 20	Clause 25
Section 25	Clause 19	Clause 19	Clause 21	Clause 26
Section 26	Clause 20	Clause 20	Clause 22	Clause 27
Section 27	Clause 21	Clause 21	Clause 23	Clause 28
Section 28		Clause 22	Clause 24	Clause 29

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended on report in the Lords
Section 29			Clause 25	Clause 30
Section 30				Clause 31
Section 31				
Section 32	Clause 22	Clause 23	Clause 26	Clause 33
Section 33	Clause 23	Clause 24	Clause 27	Clause 35
Section 34			Clause 28	Clause 36
Section 35	Clause 24	Clause 25	Clause 29	Clause 37
Section 36	Clause 26	Clause 27	Clause 30	Clause 38
Section 37	Clause 25	Clause 26	Clause 31	Clause 39
Section 38			Clause 32	Clause 40
Section 39				Clause 41
Section 40	Clause 28	Clause 29	Clause 34	Clause 42
Section 41	Clause 29	Clause 30	Clause 35	Clause 43
Section 42			Clause 36	Clause 44
Section 43	Clause 30	Clause 31	Clause 37	Clause 45
Section 44	Clause 31	Clause 32	Clause 38	Clause 46
Section 45				Clause 48
Section 46			Clause 40	Clause 47
Section 47				Clause 49
Section 48				Clause 50
Section 49				Clause 51
Section 50				Clause 52
Section 51				Clause 53
Section 52				Clause 54
Section 53				Clause 55
Section 54				Clause 56
Section 55				Clause 57
Section 56				Clause 58
Section 57				Clause 59
Section 58	Clause 32	Clause 33	Clause 41	Clause 60
Section 59	Clause 33	Clause 34	Clause 42	Clause 61
Section 60	Clause 34	Clause 35	Clause 43	Clause 62

Section of the Act	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended on report in the Lords
Section 61	Clause 35	Clause 36	Clause 44	Clause 63
Section 62	Clause 36	Clause 37	Clause 45	Clause 64
Section 63	Clause 40	Clause 41	Clause 46	Clause 65
Section 64	Clause 41	Clause 42	Clause 47	Clause 66
Section 65				Clause 67
Section 66			Clause 48	Clause 69
Section 67				Clause 70
Section 68				
Section 69	Clause 42	Clause 43	Clause 49	Clause 71
Section 70	Clause 43	Clause 44	Clause 50	Clause 72
Section 71	Clause 44	Clause 45	Clause 51	Clause 73
Section 72	Clause 45	Clause 46	Clause 52	Clause 74
Section 73	Clause 46	Clause 47	Clause 53	Clause 75
Section 74	Clause 47	Clause 48	Clause 54	Clause 76
Section 75	Clause 48	Clause 49	Clause 55	Clause 77
Section 76	Clause 49	Clause 50	Clause 56	Clause 78
Section 77	Clause 51	Clause 52	Clause 57	Clause 79
Section 78	Clause 50	Clause 51	Clause 58	Clause 80
Section 79	Clause 52	Clause 53	Clause 59	Clause 81
Section 80	Clause 53	Clause 54	Clause 60	Clause 82
Section 81	Clause 54	Clause 55	Clause 61	Clause 83
Section 82	Clause 55	Clause 56	Clause 62	Clause 84

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