Title: Evidence in Sexual Offences Prosecutions **IA No: LAWCOM0088** **RPC Reference No:** **Lead department or agency:** Law Commission **Other departments or agencies:** **Ministry of Justice**	**Impact Assessment (IA)** **Date:** 09/04/2026 **Stage:** Development/Options **Source of intervention:** Domestic **Type of measure:** Primary legislation **Contact for enquiries:** jessica.skinns@lawcommission.gov.uk

Summary: Intervention and Options

RPC Opinion: N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year**	**One-In, Three-Out**	**Business Impact Target Status**
-£60.30m	£m	£m	Not in scope	Qualifying provision

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

The Crime Survey of England and Wales estimates that 65,000 adults experienced rape (including attempts) in England and Wales in the 12 months ending March 2025. The unit cost of a rape offence to society is estimated at approximately £52,600, mainly reflecting the severe physical, psychological, and emotional harm suffered by victims, alongside the wider social and economic costs.

Since 2015, the number of rape cases recorded by police, the number of suspects charged, and the number of cases received at the Crown Court have increased. The criminal trial process itself can be profoundly traumatising for complainants of sexual offending, often requiring them to recount highly personal experiences in an adversarial setting. A separate but related problem is the persistence of misconceptions about sexual offending, often referred to as “rape myths”, which can influence how evidence is presented, interpreted, and assessed during trials. Research indicates that such misconceptions can shape decision making at multiple stages of the process, including jury deliberations, notwithstanding existing judicial directions and safeguards.

Legislative reform is necessary to ensure that trials are conducted in the least traumatic way possible and to strengthen evidential rules in relation to material that carries a high risk of introducing or reinforcing misconceptions, while continuing to safeguard defendants’ fair trial rights. Addressing these problems will help improve the accuracy and fairness of jury decision-making, strengthen public confidence in the justice system, and may encourage more complainants to report sexual offences.

What are the policy objectives and the intended effects?

1. To improve the understanding of consent and sexual harm that informs the substance, practice and application of the law, and to counter the impact of misconceptions about sexual violence at trial.
2. To improve the treatment of complainants of sexual offences.
3. To ensure that defendants in sexual offences cases receive a fair trial.

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

Option 0: Do nothing.
Option 1: Full implementation of all of our recommendations. This is the preferred option as it most effectively achieves all of the above policy objectives.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** N/A

Does implementation go beyond minimum EU requirements?		N/A		
Are any of these organisations in scope?	**Micro** No	**Small** No	**Medium** No	**Large** No
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:**	**Non-traded:**	

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

Signed by the responsible SELECT SIGNATORY: ..... Date: .....

Summary: Analysis & Evidence

Policy Option 1

Description: Full implementation of all recommendations.

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
2024/25	2024/25	10	**Low:** Optional	**High:** Optional	**Best Estimate:** -£60.30

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A		N/A	**N/A**
High	N/A		N/A	**N/A**
Best Estimate	N/A		£7.25	**£60.30**

Description and scale of key monetised costs by 'main affected groups' [1]

On-going costs: new requirement for Ground Rule Hearings ("GRHs") in most serious sexual offence cases £1.68 million per year; increased Crown Court trial time from a new right to be heard in sexual behaviour evidence admissibility hearings ("SBE") £0.63 million per year; increased trial time due to increased expert evidence in sexual violence cases £0.31 million per year; annual cost of staffing unit providing legal advice to rape complainants and some legal representation in the Crown Court, £4.63 million.

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

Transitional costs: familiarisation costs – legal practitioners and sexual offences investigative teams. Training for all legal practitioners and judges to familiarise with the legislative changes, and mandatory training for practitioners on rape myths. Initial spike in appeals.
Ongoing costs: judges providing written rulings; complainants' rights to appeal; increased number of hearings mainly pre-charge, likely to occur in magistrates' courts.

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

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

Transitional benefits: None identified

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

Ongoing benefits: wellbeing benefit to victims of sexual violence who have reported an offence; improved confidence in the trial process; GRHs have the potential to deliver a more efficient trial process reducing trial time.

Key assumptions/sensitivities/risks **Discount rate** 3.5%

Savings anticipate availability of government funding to facilitate proposed changes.

BUSINESS ASSESSMENT (Option 1)

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

[1] Central estimate.

Evidence Base

A. Background

Introduction

1. The Crime Survey of England and Wales estimates that 65,000 adults experienced rape (including attempts) in England and Wales over the 12 month period ending March 2025.[1] Furthermore, 7.3% of females (1.8 million) have experienced rape since the age of 16[2] while people with mental health problems are particularly at risk of being victims and repeat victims.[3]

2. Rape is not only a serious criminal offence in legal terms, but also one of the most devastating in terms of its enduring impact on individual lives. According to the Home Office report *The Economic and Social Costs of Crime* (2018), the total cost per rape offence is estimated at £52,600[4], reflecting the profound physical, psychological, and emotional harm experienced by victims, as well as the wider social and economic impacts. Rape is identified as the crime with the second highest total unit cost to society, exceeded only by homicide.

3. Rape and serious sexual offences prosecutions are increasing in number, and are therefore taking up more investigative and prosecutorial resources and court time. Since 2015, in adult rape cases, with some fluctuations, there have been overall increases in the following measures: the number of crimes recorded by the police;[5] the number of suspects the Crown Prosecution Service ("CPS") has authorised to be charged;[6] and the number of cases received at the Crown Court.[7] This data underscores the vast scale of harm caused by rape and serious sexual offences in England and Wales.

4. This has added sustained pressure to an already stretched justice system leading to delay which impacts complainants and defendants.[8] On average, adult rape investigations and prosecutions can take nearly two years to complete. This figure is high relative to other offences, which may partly be explained by evidential complexity and challenges in gathering evidence in rape cases. In April to June 2024, the average number of days from report to charge was 39 days for all "victim-based crime" and 317 for adult rape, and from charge to case completion was 262 days for all crime and 393 for adult rape.[9]

5. Prosecuting sexual offences also presents distinctive challenges given the unique evidential features. The absence of direct supporting evidence (such as witnesses, forensic evidence, or medical evidence) and the fact that the complainant may display counter-intuitive post-incident behaviours can leave a gap which may be filled in by jurors "relying on their biases

---

[1] Office for National Statistics, *Dataset: Sexual offences prevalence and victim characteristics, England and Wales* (2025) Table 7A.

[2] Office for National Statistics, *Sexual offences victim characteristics, England and Wales: year ending March 2025* (2025), p 4.

[3] B Pettit et al, *At risk, yet dismissed: The criminal victimisation of people with mental health problems* (2013).

[4] M Heeks et al, Home Office, The economic and social costs of crime Second edition, Research Report 99 (July 2018) p 6. This report indicated that the unit cost of rape was £39,360 in 2015/16 prices, which uprated to 2024/25 prices is £52,600.

[5] HM Government, *Criminal justice system delivery data dashboard* (May 2025). In 2015/2016, police recorded 22,882 crimes. This figure then increased, dipping slightly in 2020/2021 before starting to increase again and reaching 48,340 in 2023/2024. The ONS caveats police recorded data as follows: "trends in police recorded sexual offences should be interpreted with caution as improvements in recording practices and increased reporting by victims have contributed to increases in recent years". See ONS, *Crime in England and Wales: year ending September 2024* (January 2025).

[6] HM Government, *Criminal justice system delivery data dashboard* (May 2025). In 2015/2016, the annual volume of suspects charged was 2,270, dropping to 908 in 2018, and steadily increasing to 2,773 by 2023/2024. Based on Crown Prosecution Service ("CPS") data, "in 2023/24 there were 2,283 prosecutions, 51.9% higher than in 2022/23". See House of Lords Library, *Rape: Levels of prosecutions* (January 2025) p 4, citing CPS, CPS data summary: Quarter 4 2023–2024 (18 July 2024).

[7] HM Government, *Criminal justice system delivery data dashboard* (May 2025). In 2015/2016 annual receipts were 2,240, they dropped to a low of 826 in 2018/2019, before increasing to 2,903 in 2023/2024.

[8] See Evidence in Sexual Offences Prosecutions (2025) Law Com No 420, para 1.65.

[9] See House of Lords Library, *Rape: Levels of prosecutions* (January 2025) p 6 citing HM Government, *Criminal justice system delivery data dashboard: overview*.

and misconceptions", sometimes referred to as "rape myths".[10] These are beliefs about sexual offending which, although genuinely and sincerely held, are factually incorrect and may be derived from stereotypes.

6. Often there will be a delayed complaint, or victims will not report at all.[11] Other counter-intuitive responses during and after the alleged sexual assault include freezing (where the body becomes tense, rigid and silent) or flopping (where the muscles become loose and the body goes floppy). Assumptions may also be made about the consumption of alcohol or drugs by the complainant and defendant, which is a common feature of sexual offences cases. Police data shows that 22% of reported cases of rape of a female aged 16 and over and 18.8% of sexual assault on a female aged 13 and over were recorded as "alcohol related".[12]

7. Steps have been taken to address the impact of misconceptions such as restrictions on the use of the complainant's sexual behaviour evidence ("SBE") and guidance and training for judges and prosecutors regarding their conduct of these cases.[13] In spite of this, evidence points to a likelihood that misconceptions have some impact on jurors' deliberations. Therefore, there is a need to ensure that practice and procedure in sexual offences cases minimise the risk of rape myths contaminating decision making in these trials.

8. Further, the trial process for rape can be a traumatising experience for complainants due to the intimate nature of the matters discussed at trial and the degree of trauma associated with the offence itself. There have been several reforms over the past few decades responding to these concerns, such as the introduction of special measures when complainants give evidence or the restrictions on the use of SBE. Despite this, the trial process remains traumatising for complainants.[14]

Evidence in Sexual Offences Prosecutions project

9. In March 2019, the Government commenced its End-to-End Review of the Criminal Justice System Response to Rape ("The Rape Review"). The Rape Review "looked at evidence across the system – from reporting to the police to outcomes in court – in order to understand what is happening in cases of adult rape and serious sexual offences".[15]

10. One of the outcomes of this review was that the Government asked us to examine the law, guidance, practice and procedure relating to the use of evidence in prosecutions of rape and serious sexual offences. The terms of reference asked the Commission to review the current law and guidance designed to counter misconceptions about sexual offending; the provisions restricting the use of complainants' SBE in section 41 of the Youth Justice and Criminal Evidence Act 1999; the rules and procedures governing the pre-trial disclosure of complainants' personal records; the rules governing the admissibility of defendant and complainant character evidence; and the legislative framework governing the use of special measures for complainants.

11. Consultation lies at the heart of our approach to law reform, serving as a critical mechanism for transparency, legitimacy, and informed decision-making. Once initial research, scoping, and stakeholder engagement is complete, we publish a consultation paper outlining the

---

[10] A Cossins, *Closing the Justice Gap for Adult and Child Sexual Assault* (2020) pp 97 and 102.

[11] Office for National Statistics, *Nature of sexual assault by rape or penetration, England and Wales: year ending March 2020* p 14: "The Crime Survey for England and Wales (CSEW) for the years ending March 2017 and March 2020 combined showed that fewer than one in six victims (16%) had reported the assault to the police (Appendix Table 13)."

[12] Office for National Statistics, *Dataset: Sexual offences prevalence and victim characteristics, England and Wales* (2022) Table 22.

[13] See Evidence in Sexual Offences Prosecutions (2025) Law Com No 420, paras 1.2-1.14.

[14] A Cossins, Closing the Justice Gap for Adult and Child Sexual Assault (2020), pp 12, 468; O Smith, and E Daly, Final Report: Evaluation of the Sexual Violence Complainants' Advocate Scheme (December 2020) p 26.

[15] The Rape Review (2021) paras 1, 3-5.

current law, its shortcomings, and provisional proposals for change. We actively seek input through stakeholder meetings, seminars, advisory groups, and written submissions, ensuring that voices from across society, including academics, practitioners, and the public, shape the reform process. This engagement not only enriches the evidence base, but also fosters trust and accountability and enables us to refine our recommendations in light of diverse perspectives.

12. On 23 May 2023 we published a consultation paper containing 118 consultation questions. We held a four-month public consultation and received 133 consultation responses from members of the public, professionals and organisations. We also held around 60 consultation events for different groups of stakeholders including legal professionals, police, victim support groups, academics, media organisations and victims. The report considers the law governing the trial process for rape and serious sexual offences. We use the term "serious sexual offences" to mean sexual offences that would usually be prosecuted in the Crown Court. Serious sexual offences would include, for example, the following offences under the Sexual Offences Act 2003 and attempts to commit these offences:

    a. assault by penetration, which is an indictable offence under section 2;

    b. sexual assaults prosecuted as indictable offences under section 3;

    c. causing a person to engage in sexual activity without consent prosecuted as an indictable offence under section 4;

    d. voyeurism prosecuted as an indictable offence under sections 67 or 67A; and

    e. offences against persons with a mental disorder, including offences involving care workers, prosecuted as an indictable offence under sections 30 to 41.

13. This impact assessment ("IA") relates to the 72 recommendations in our *Evidence in Sexual Offences Prosecutions* report, which, if implemented, would improve the understanding of consent and sexual harm; improve the treatment of complainants; and ensure that defendants receive a fair trial.

Procedure before and during trial

14. In the following paragraphs, we describe the current legal position with regard to the issues covered by the terms of reference of our review. The following section then discusses the main issues which arise with regard to these issues.

Personal records

15. Personal records include records such as medical, counselling, education and social services records. They contain highly personal information about the person who is the subject of the record. They are often held by third parties, such as counsellors, so are sometimes referred to as third-party material ("TPM"). In sexual offences cases, the police or prosecution may request to access complainants' personal records, or seek a court order for them to be produced. Once in the hands of the prosecution, they may be disclosed to the defence and, if relevant and otherwise admissible, admitted at trial and used in lines of questioning. This can be distressing to complainants and there is also a risk that this type of evidence can introduce myths and misconceptions into the trial process.

16. At the pre-charge stage, if the record holder or complainant does not consent to the police or prosecution accessing their personal records, in limited circumstances, police and prosecutors may compel their production under the Police and Criminal Evidence Act 1984. Where the complainant does consent, there must be a properly identifiable foundation for

the inquiry, and the police must consider the necessity of their request, the least intrusive method and, where the request does amount to an invasion of privacy, whether it is proportionate and justifiable.[16]

17. Post-charge, without the complainant's consent, police and prosecutors may compel the production of the complainant's personal records by making an application for a witness summons under the Criminal Procedure (Attendance of Witnesses) Act 1965.

Sexual behaviour evidence

18. SBE is evidence of, or questioning about, a complainant's sexual behaviour. This can include a range of behaviours and experiences that are sexual in nature, that could have happened before or after the sexual activity that is the subject matter of the trial. For example, evidence of pregnancy or sexually transmitted diseases would be classified as SBE. Questioning about one's sexual behaviour can be distressing, humiliating, and in some cases traumatising. This evidence and questioning about it can also introduce myths and misconceptions into the trial process, for example, the misconceptions that the complainant's sexual experience with the defendant or others makes it more likely that the complainant consented to the alleged assault and makes the complainant a less credible witness (known as "the twin myths").

19. At trial, where the defence (but not the prosecution) seek to admit SBE it will only be admitted where it meets the criteria for admissibility in one of the four gateways set out in the Youth Justice and Criminal Evidence Act 1999.[17] Judges are not required to provide written reasons for their decisions.

20. Complainants do not have a right to be heard with respect to an application to admit SBE and cannot engage independent legal representation. Complainants do not have access to publicly funded independent legal advice.

Previous allegations of sexual offending

21. Evidence of false allegations ("FAE") by the complainant that they have previously been the victim of a sexual offence are currently subject to the restrictions on bad character evidence in the Criminal Justice Act 2003 (where there is a proper evidential basis for asserting the allegation was false), or the restrictions on SBE under section 41 of the Youth Justice and Criminal Evidence Act 1999. While this evidence can have high probative value, it can also pose similar risks to the fairness of proceedings due to its prejudicial potential. There are also concerns that evidence of previous sexual offence allegations made by the complainant may be admitted as false allegations, where there is limited evidence that the allegation was false.

Criminal injuries compensation evidence

22. Victims of violent crimes are entitled to apply for compensation under the state-funded Criminal Injuries Compensation ("CIC") scheme. However, we have been told that in sexual offences trials, the defence may seek to adduce evidence that a complainant has made an application under the CIC scheme. This creates a risk that jurors may be influenced by the misconception that sexual offence allegations are often fabricated for financial gain. This kind of evidence is currently admissible if it meets the relevance test.

Special Measures

[16] Attorney General's Office, *Attorney General's Guidelines on Disclosure for investigators, prosecutors and defence practitioners* (February 2024) paras 30-32.

[17] Evidence in Sexual Offences Prosecutions (2025) Law Com No 420, paras 3.10-3.13.

23. Cases of serious sexual offending are heard in the Crown Court. However, complainants in sexual offences cases have access to special measures as "intimidated" witnesses under section 17(4) of the Youth Justice and Criminal Evidence Act 1999. The court must consider whether and to what extent that measure, or combination of measures, will improve and maximise the quality of the witness's evidence.

Ground rules hearings

24. Ground Rules Hearings ("GRHs") are a type of pre-trial hearing usually held close in time to the start of the trial. They allow judges to make directions to facilitate the appropriate treatment and effective participation of a witness or defendant. They can be used to make decisions on applications for measures to assist witnesses to give evidence.

Jury research

25. The Juries Act 1974 section 20D makes it an offence to intentionally disclose or solicit information about statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in proceedings before a court. This creates a barrier to conducting research into the influence of myths and misconceptions among jury members.

Problems Under Consideration

Inefficacy of the current system

26. The current regime regulating access to and production of complainants' personal records held by third parties sets a low threshold for such requests and is ineffective. Complainants are often asked to consent to their records being accessed in circumstances where they are likely to be traumatised, and where failure to consent may result in no further police action. Complainants also do not usually have access to legal advice in order to understand the implications of their decision.

27. The inefficacy of the current system has resulted in broad and intrusive requests for confidential and personal information. For example, the Home Office review of 139 rape case files found that amongst 342 requests made, 49% had no recorded rationale.[18] The Centre for Women's Justice ("CWJ") provided us with a summary of 11 case studies created in 2021 documenting disproportionate requests from the police or prosecution, taken from its own casework. These included "routine blanket requests for a broad range of materials, (therapy records, [Independent Sexual Violence Adviser ("ISVA")] records, [General Practitioner ("GP")] and other health records, social services and education records) and requests which constitute trawls for any matter relevant to credibility". Requests such as these create a risk of traumatisation and of introducing myths and misconceptions into the trial process.

28. Similarly, the existing law governing the admissibility of SBE has been criticised for being ineffective. On one hand, the gateways approach can be unduly restrictive, as it requires SBE to meet specific criteria to be admissible. On the other hand, academics such as Professor Clare McGlynn[19] have argued that the existing gateways have been interpreted too widely, resulting in too lenient an approach to admissibility.

29. Furthermore, and despite restrictions on lines of questioning, myths and misconceptions continue to be perpetuated through lines of questioning and speeches. Myths and misconceptions are also introduced by CIC evidence, which only needs to meet a simple

[18] Home Office, *Third Party Material Case File Review Report Policy Exercise* (April 2024) p 3, paras 4.4, 4.2.2, and para 4.3, Table 7.

[19] C McGlynn "Rape Trials and Sexual History Evidence; Reforming the Law on Third-Party Evidence" (2017) 81 Journal of Criminal Law 367-92, 374.

relevance test to be admitted. We also heard examples from stakeholders of cases where SBE has been introduced by defence counsel without a section 41 application being made, and the existing law does not restrict SBE being adduced by the prosecution or admitted by agreement.

Requires simplification

30. The existing law surrounding the trial process for sexual offences cases is overly complicated. For example, the process and thresholds for accessing complainants' personal records are different depending on whether a complainant consents. Further, there are no specific rules for accessing complainants' personal records, and the process is largely governed by guidance rather than by primary or secondary legislation.

31. In her consultation response, Dr Olivia Smith told us that her early 2022 Operation Soteria survey of 417 rape investigators across 13 forces found high levels of requests and confusion over the rules for access to third party materials, which she partly attributed to "the piecemeal and complex legal framework governing use of TPM". She added that 59% of respondents felt confident that they understood complainants' legal rights in relation to TPM, but 41% did not.

32. We also heard from academics, legal practitioners, and judges that the existing gateways approach to the admissibility of SBE is too complex, which can lead to confusion in application, a lack of transparency in decision making, and mistrust amongst the public. There is also uncertainty about whether FAE should be subject to the bad character or SBE frameworks, meaning that potentially prejudicial evidence might not receive the appropriate degree of scrutiny.

33. Further, the existing regime for applying for special measures is unnecessarily complex: applications for special measures are required to demonstrate how the measures requested would improve the quality of the complainant's evidence, which can be intrusive, unnecessary and burdensome.

34. The complexity of the existing law can lead to inconsistencies in application. Therefore, reform which simplifies the law will provide clarity, in turn benefiting police, prosecutors, defendants and complainants.

In need of modernisation

35. Aspects of the trial process for sexual offending require modernisation. For example, the existing example myths directions in the Crown Court Compendium are designed to caution the jury against making assumptions about sexual offending. There are example directions for a range of misconceptions, including misconceptions about delay in reporting an offence, absence of physical resistance and clothing.

36. However, there are gaps in these directions. There are no example directions about myths specific to male rape complainants; complainants with a mental health condition, learning disability, or who are neurodiverse; the tendency of a victim of domestic abuse to take steps to placate or appease their abuser; or the sharing of sexualised communications online. Amendments to the existing example directions and the creation of additional example directions would help to address modern problematic cultural narratives.

37. Advocates who prosecute sexual offences are required to demonstrate competencies and knowledge of rape myths and stereotypes, and CPS solicitor training also includes a session on dispelling myths and misconceptions. However, defence practitioners are not required to undergo training on myths and misconceptions prior to undertaking sexual offences cases. Mandatory training would increase the number of legal practitioners with the knowledge of

the specific risks that myths and misconceptions pose to the trial process, thereby modernising practice.

38. Evidence suggests that judges and advocates do not request GRHs consistently, even in cases where such a hearing would be appropriate. Legislative reform is required to ensure GRHs are used consistently, to improve trauma informed practice in criminal trials.

39. Courts hearing sexual offences lack the physical and technological capacity to facilitate the use of special measures, and staff do not receive training on trauma-informed practices. Specialist sexual offences courts are required to improve trauma informed practice, in order to reduce the risk of participants being traumatised when they attend court.

Summary

40. The following table summarises the main issues that form the basis of the options discussed in this IA.

Table 1: The problems caused by current laws and procedures.

Current law	Problems caused
Pre-charge, if the record holder or complainant does not consent to the police or prosecution accessing their personal records, in limited circumstances, police and prosecutors may seek their compelled production under the Police and Criminal Evidence Act 1984. Where the complainant does consent to the police or prosecution accessing their personal records, there must be a properly identifiable foundation for the inquiry, and the police must consider the necessity of their request, the least intrusive method and, where the request does amount to an invasion of privacy, whether it is proportionate and justifiable.[20] Post-charge, without the complainant's consent, police and prosecutors compel the production of the complainant's personal records by making an application for a witness summons under the Criminal Procedure (Attendance of Witnesses) Act 1965.	There is disproportionate access to and production of complainants' personal records, which infringes upon their right to respect for their private life.
Where the defence (but not the prosecution) seek to admit SBE, it will only be admitted where it meets the criteria for admissibility in one of the four gateways set out in the Youth Justice and Criminal Evidence Act 1999. Judges are not required to provide written reasons for their decisions.	In some instances, the gateways prevent evidence necessary for a fair trial from being admitted. In other instances, the gateways are too lenient resulting in an inappropriately high number of successful applications to admit SBE. The gateways are also unduly complex, which can lead to inconsistency in their application. Since

[20] Attorney General's Office, *Attorney General's Guidelines on Disclosure for investigators, prosecutors and defence practitioners* (February 2024) paras 30-32.

Current law	Problems caused
	judges do not have to provide written reasoning, this inconsistency can also lead to a lack of transparency in decision making and mistrust from complainants and the wider public.
FAE relating to sexual offending is currently subject to either the restrictions on bad character evidence in the Criminal Justice Act 2003 (where there is a proper evidential basis for asserting the allegation was false), or the restrictions on SBE under section 41 of the Youth Justice and Criminal Evidence Act 1999.	There are concerns that the current approach does not ensure the appropriate level of scrutiny for this type of evidence.
Admissibility and cross-examination regarding criminal injuries compensation ("CIC") claims is governed by the standard test of relevance.	A relevance test does not adequately restrict the use of evidence that may introduce misconceptions about false allegations.
Complainants in sexual offences cases have access to special measures as "intimidated" witnesses under section 17(4) of the Youth Justice and Criminal Evidence Act 1999. The court considers whether and to what extent that measure or combination of measures will improve and maximise the quality of the witness's evidence.	The labelling of complainants of sexual offences as "intimidated" is misleading. Further, the current regime does not allow for sufficient consideration of the complainant's views. The requirement for the application to demonstrate how the measures would improve the quality of the complainant's evidence (requiring explanation from the complainant) is intrusive, unnecessary and burdensome.
Expert evidence of generalised behavioural responses to sexual offending is currently inadmissible.	Expert evidence cannot be admitted to challenge myths and misconceptions in sexual offences cases. The primary avenue for addressing misconceptions is judicial directions, but these cannot always convey the nuance required to respond to more complex misconceptions.
Section 20D of the Juries Act 1974 makes it an offence to intentionally disclose or solicit information about statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in proceedings before a court.	This prevents research from being conducted with real jurors, meaning that there is a gap in knowledge about the influence of myths and misconceptions on jurors' deliberations.
No specialist courts exist for sexual offences cases.	Courts hearing sexual offences lack the physical and technological capacity to facilitate the use of special measures. Further, staff do not receive training on trauma-informed practices. There is also a backlog of sexual offences cases.
Complainants do not have a right to be heard with respect to an application to admit SBE, or a pre-charge right to be heard for an application for compelled production of their personal records and	Applications to admit SBE and to access personal records held by third parties lack the additional scrutiny that could be afforded by a complainant's representative.

Current law	Problems caused
cannot engage independent legal representation.	
There is no formalised framework for complainants of sexual offences to receive legal advice.	Complainants cannot provide informed consent to requests to access their personal records. Complainants cannot make an informed choice about which special measures would help them to give evidence. Complainants do not understand how evidence of their sexual behaviour will be used at trial or how they can challenge its use.
Complainants currently do not have a right of appeal against applications to admit SBE.	There is no domestic remedy to challenge applications to admit a complainant's SBE as required by article 13 of the European Convention of Human Rights.
GRHs are not used consistently.	Proceedings are not as efficient as they could be because opportunities are missed to identify and consider issues at an early stage.

B. Rationale and Policy Objectives

Rationale

41. The conventional approaches to government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generate by misdirected rules) where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more vulnerable groups in society).

42. In this instance, the rationale for intervention is both efficiency and equity as is explained further in the paragraphs which follow.

<u>Asymmetric and incomplete information</u>

43. The rules of evidence purposefully limit what can be admitted as evidence in court to ensure the fairness of proceedings. This can mean that the flow of information is fragmented and uneven, which influences the fact-finding process. If the rules of evidence are overly restrictive or too lenient, this can produce inefficiencies and injustices in outcomes for the defendant or the complainant.

<u>Risk of harm from misuse of information (negative externalities)</u>

44. Even where information is disclosed, it can be misused or presented in a way that inflicts secondary harm. For example, this may occur by reinforcing harmful myths or inviting character judgments of the complainant based on irrelevant past behaviour or by inappropriately restricting evidence necessary for a fair trial. This creates negative externalities: harms that spill over beyond the immediate case. These include:

a. Deterrence of future complainants from coming forward due to fear of humiliation or traumatisation;[21]

b. Erosion of public confidence in the fairness and credibility of the justice system;

c. Under-reporting of sexual offences, which in turn lowers the system's deterrent effect and increases the social costs of undetected and unaddressed harm.

Public good and reputational risks

45. Justice, particularly in sensitive cases such as sexual offences cases, can be viewed as a public good. It delivers benefits beyond individual parties by maintaining social order, reinforcing norms, and deterring harmful behaviour. However, current weaknesses in how evidence is handled compromise this public good. Where justice is not seen to be done, or where processes appear to retraumatise complainants or produce inconsistent outcomes, the justice system's overall legitimacy is undermined.

Institutional failure and inconsistent application of rules

46. Another failure stems from institutional capacity constraints. Courts may not be fully equipped, either procedurally or culturally, to engage with the complexity of highly sensitive evidence. Existing legal rules on admissibility may be inconsistently applied, particularly when dealing with contextual factors like SBE. This leads to a form of institutional failure: even where legal tools exist, they are not always implemented effectively or fairly, producing uncertainty, inconsistency, and a chilling effect on access to justice.

Lack of scope for complainant agency

47. In economic terms, complainants are not supported to act as informed or empowered participants in the criminal justice system which contributes to inefficient and unfair outcomes.

48. In summary, these failures indicate a need for intervention to correct distortions in the way information is used, understood, and protected in sexual offence trials. A more responsive and informed approach to evidence would not only improve outcomes in individual cases but also help to restore wider confidence in the justice system, reduce under-reporting, and promote more efficient and equitable use of judicial resources.

Policy objectives

49. The policy objectives are to:

a. improve the understanding of consent and sexual harm that informs the substance, practice and application of the law, and to counter the impact of myths and misconceptions about sexual violence.

b. improve the treatment of complainants.

c. ensure that defendants receive a fair trial.

[21] An Operation Soteria survey of 1,968 sexual offences complainants found that 16% of participants said that police wanting their personal records and data such as mobile phones was a reason for their decision not to proceed. See K Hohl, A-K Reid, S Molisso, M Pullerits, Operation Soteria Bluestone Rape and sexual assault survivors' experience of the police in England and Wales. Survey Report I: January – June 2023 (September 2023) p 37.

C. Main Stakeholder Groups, Organisations and Sectors

50. The options assessed in this IA will most directly affect the following groups:

- defendants in sexual offences cases;
- complainants and victims of sexual offences and their supporters;
- law enforcement;
- legal practitioners;
- the judiciary; and
- third parties who hold personal information about complainants.

D. Description of options considered

51. The following options are considered in this IA:

- **Option 0 – Do nothing.**
- **Option 1 – Full implementation of our recommendations (preferred).**

52. Option 1 is preferred as it best meets the policy objectives.

Option 0: Do Nothing

53. This option would retain the existing laws and procedures governing sexual offences prosecutions. As a result, the various issues discussed above, and listed in Table 1, would remain unaddressed.

Option 1: Full implementation of our recommendations

54. This is not an exhaustive list of all our recommendations but covers those likely to be of particular interest as well as those with significant costs and/or the potential for savings.[22]

a. A regime governing personal records: There should be a statutory framework for requests for access and production of personal records, accompanied by a code of practice and guidance. These requests should pass through an enhanced relevance threshold and structured discretion model, with judicial scrutiny for compelled production pre- or post-charge. This regime should apply to records held by a professional third party in which the complainant has a reasonable expectation of privacy. This should include (but ought not to be limited to) therapy records, complainant support records, social services records, medical records and school records.

b. Reform of the restrictions for SBE: There should be a structured discretion model for regulating the use of SBE. There should be factors accompanying the model to guide judicial discretion and support the model in providing more consistent, clear and principled decisions. Judges should be required to provide written reasons for decision making with respect to the admissibility of sexual behaviour evidence. Finally, the regime should also apply to SBE adduced by either the defence or the prosecution.

c. Reform of the regulation of FAE: FAE should be regulated by the SBE framework where the evidence sought to be adduced, or questions sought to be asked, fall

[22] For a full list see Evidence in Sexual Offences Prosecutions (2025) Law Com No 420, Ch 15.

within the definition of “sexual behaviour”. FAE should also be regulated by the framework regulating the use of evidence of the bad character of a non-defendant where that evidence does not fall within the definition of “sexual behaviour” but is being used as evidence of misconduct.

d. An admissibility threshold for evidence of CIC claims: Evidence that the complainant has made a claim through the government-funded CIC scheme as a victim of a violent crime should be subjected to a structured discretion model similar to the model recommended for the admissibility of SBE.

e. A right to be heard for complainants with access to legal advice, assistance and representation: Complainants in sexual offences cases should have a right to be heard when applications are made for the compelled production (both pre- and post-charge) of their personal records and the admission of their sexual behaviour evidence. This should be accompanied by access to independent legal advice, assistance and representation. Complainants should also have access to independent legal advice and assistance (but not a right to be heard or independent legal representation) to help them access measures to assist with giving evidence.

f. A right of appeal for complainants: Complainants should be able to appeal a ruling on the admissibility of their SBE that is made at a preparatory hearing.

g. Entitlement to a range of measures to assist with giving evidence: The term “special measures” should be replaced with the term “measures to assist with giving evidence”. Complainants in sexual offences cases should be entitled to the use of: screens; live link; pre-recorded evidence; exclusion of the public (subject to a reformed exemption); removal of wigs and gowns; presence of a supporter such as an ISVA; and separate and accessible entrances and waiting rooms. Complainants should have an entitlement to live links and separate accessible entrances and waiting rooms to facilitate their attendance at trial once they have given their evidence.

h. Expert evidence about behavioural responses to sexual offending: Expert evidence of general behavioural response to sexual violence should be admissible to address myths and misconceptions in sexual offences trials in particularly complex cases where judicial directions would not be sufficient.

i. Research with real jurors: There should be an exception to the offence of disclosing the jury’s deliberations to enable approved researchers to conduct research with real jurors.

j. Training: There should be mandatory training on myths and misconceptions for practitioners in sexual offences cases.

k. Professional misconduct consequences: The Bar Standards Board should consider amending its Code of Conduct to state explicitly that deliberate reliance on myths and misconceptions could result in professional misconduct consequences and that the use of generalisations based on myths and misconceptions is prohibited.

l. Guidance: The Judicial College should consider introducing guidance to judges on responding to myths and misconceptions.

m. Presumptive GRHs: There should be a presumption in favour of holding a GRH in every sexual offence case where the complainant is expected to give evidence.

n. Specialist sexual offences courts ("SSOCs"): Specialist courts for sexual offences should be introduced. This model would involve specialisation within existing court buildings, with improved access to measures to assist with giving evidence, additional training for judges and court staff, and prioritised listing.

55. This recommended package of reforms would improve the understanding of consent and sexual harm, improve the treatment of complainants, and ensure that defendants can receive a fair trial.

56. Our recommended regime governing access to personal records aims to fill a procedural gap and offer greater clarity to parties via a formalised statutory framework. Our recommendations for improved evidential thresholds seek to improve the consistency, clarity and scrutiny of decision making on the admissibility of evidence which is traumatising to complainants, and which may introduce myths and misconceptions to the trial process.

57. Our recommendations were designed to work holistically. As a result, the measures we recommend are interrelated and rely on other measures to fully achieve the intended purpose and have the necessary impact. Our evidential threshold reforms were designed to be supported by additional measures to make them more effective. This includes providing the complainant with a right to be heard and independent legal advice and representation, a modest extended right of appeal, the introduction of written reasons for judicial decisions on the admissibility of SBE and CIC evidence and improved regulation of advocates' conduct. If these evidential thresholds were implemented alone, they would not operate as effectively as if they were implemented as a holistic package of reform.

58. It is not possible to remove from the trial process all evidence that may be potentially distressing to the complainant or intrusive of their privacy. In an adversarial justice system, cross-examination on distressing topics and some exploration of private information is necessary for a fair trial in sexual offences cases. Our recommendations are designed to prevent harm to the complainant where possible, but also to minimise the harmful effects where complete prevention is not possible. Our recommendations for complainants to be entitled to certain standard measures to assist with giving evidence and the implementation of SSOCs would achieve this.

59. Further, even if myths and misconceptions are stripped away from the evidence admitted, jurors may nonetheless bring their own prejudices and misconceptions into deliberations, leading them into error. Our recommendation to permit the use of expert evidence in particularly complex sexual offences cases will enable myths and misconceptions to be challenged. Furthermore, our recommendation to allow for more research to be conducted with real jurors will enable the effectiveness of juror education measures to be monitored, ultimately enabling those measures to be improved.

E. Cost and Benefit Analysis

60. This IA follows the procedures and criteria set out in the IA guidance and is consistent with the HM Treasury Green Book.

61. This IA identifies monetised and non-monetised impacts on individuals, groups and businesses with the aim of understanding what the overall impact to society might be from implementing these options. To do this, the costs and benefits of the proposed options are compared to the baseline "do nothing" or "business as usual" option.

62. The assessment occurs over a ten-year timeframe, with the present being year 0. We have assumed that the transitional costs and benefits occur in year 0, the current year, unless otherwise indicated. Ongoing costs and benefits accrue in years 1 to 10. A discount rate of

3.5 percent is generally applied when using monetised figures, in accordance with HM Treasury guidance. Unless otherwise stated all figures are in 2024/25 prices and have been uprated using the GDP deflator to adjust for inflation.

63. IAs place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However, there are important aspects that cannot sensibly be monetised – which might include whether the policy impacts differently on particular groups of society or changes in equity and fairness.

64. Many of our recommendations can be implemented at little or no cost. It is also important to highlight that many of the expected impacts involve resource transfers – where value is moved between individuals or organisations, rather than created or consumed. As such, these transfers are not usually included in calculations of Net Present Social Value ("NPSV").[23]

Option 1 – Full implementation of our recommendations (preferred)

Costs of Option 1

Transitional costs

Familiarisation

65. Judges, and legal practitioners and law enforcement that work on sexual offences cases will need to be familiar with the recommended changes. Some familiarisation costs are likely as new guidance and legislation sets out the revised approaches. Most of the recommendations impose amendments to the existing framework. For example, the recommendation for a statutory framework for requests for access and production of personal records amends an existing framework for investigations and witness summonses. Similarly, our recommended thresholds for admitting SBE and related procedure replace an existing framework.

66. It is anticipated that an additional 1-2 hours of reading or familiarisation time may be required based on an assessment of current guidance alongside recommended amendments. At present there is insufficient information to determine the number of individuals likely to be affected across judges, the legal profession more broadly, and law enforcement. As a result, it is not possible to provide a reliable estimate of associated costs.

Investment in measures to assist with giving evidence

67. We recommend a model of SSOCs which involves investment in measures to assist with giving evidence. Since there isn't data available to estimate the cost of different kinds of special measures or how often they are used, we can't make an estimate of the likely cost associated with establishing SSOCs.

Training

68. There are entirely new topics that will require training or guidance for judges, legal practitioners and law enforcement, for example the introduction of the recommended CIC evidence threshold and related procedure. There is also the recommendation for mandatory training on myths for all practitioners that could require a greater resource commitment than currently exists. Similar to the case with familiarisation, the number of individuals impacted

[23] The NPSV shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPSV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

remain uncertain. Further, our model of SSOCs would require training of court staff who work within those courts.

Initial spike in appeals

69. Following the recommended changes, we anticipate an increase in appeals lasting around 4-5 years as the scope of the new evidential thresholds and procedures are tested, likely via appeals against conviction or references by the Attorney General. Appeals are most likely to arise in relation to our recommendations for a statutory framework for requests for access and production of personal records, and evidential thresholds and related procedure for SBE, FAE and CICE. This could create costs for legal aid funding and hearing costs. It is not possible to provide an estimate of the number of likely appeals.

Ongoing costs

New requirement for GRHs in every sexual offence case

70. We recommend a presumption in favour of holding a GRH in every sexual offence case. This will create an increase in Crown Court time in most sexual offences cases. See table 3 below.

Table 3: Increased Crown Court costs from GRHs [£million][24]

	Central estimate
No. of cases requiring GRH	2,328
Avg. length of GRH [Mins]	60
Annual total cost	£1.68

Assumptions:

- Average annual cost of Crown Court sitting day is £3502 [in 2024/25 prices]. A sitting day being 5 hours.
- Average annual number of prosecutions of rape and serious sexual offences is 5820.[25]
- 90% of new cases expected to require a GRH. In the absence of any reliable data on the current proportion we have assumed 50% of cases currently have a GRH.

Annual total cost = £1.68 million [central estimate]

Present cost over 10 years = £13.97 million

Training

[24] See Written questions and answers - Written questions, answers and statements - UK Parliament last visited 1st September 2025.

[25] Ministry of Justice provided data on prosecutions and convictions from 2022-2024 based on the identification of offence codes which align with rape and serious sexual offences.

71. We recommend mandatory training on myths for all practitioners which could incur ongoing costs depending on the model of training implemented. The numbers impacted remain uncertain, so it is not possible to arrive at an annual total cost.

Increased investigative time and applications through magistrates' courts

72. Our recommended threshold requirements for access to and production of complainants' personal records may lead to additional hearings, which will mainly occur pre-charge. We envisage that these hearings may be held in magistrates' courts.

Written rulings

73. We recommend that there should be a requirement for written reasons for judicial decisions on the admissibility of SBE and CIC evidence. While we acknowledge that requiring written reasons for all applications will entail additional resources in a trial, we think that this is justified as it will improve public confidence achieve greater consistency in the application of these thresholds across cases, provide a clearer record in case of appeals, and would enable reliance on myth-based reasoning to be identified. However, the data is not available to make a cost estimate for this.

Increased trial time based on new rights to be heard

74. We recommend that complainants in sexual offences cases should have a right to be heard in relation to applications to admit SBE. In some circumstances this may result in an increase in trial time where such an application is made during the trial, as a representative for the complainant will have to be identified, instructed, and given adequate preparation time. We estimate the cost of such an eventuality in table 4 below.

Table 4: Annual Increased Crown Court Trial time from new rights to be heard[26] in £million

	Low estimate	Central estimate	High estimate
No. of cases	291	582	873
Additional court time required [mins]	60	90	120
Total cost	£0.21	£0.63	£1.26

Assumptions:

- Cost of average Crown Court sitting day £3502 [in 2024/25 prices].
- Number of cases impacted 5-15 percent of all prosecutions [5820] with 10 percent the central estimate.
- Additional Crown Court time required is 60 – 120 mins with 90 mins the central estimate.

Annual total cost = £0.63 million [central estimate]

Present value over 10 years = £5.24 million

[26] See Written questions and answers - Written questions, answers and statements - UK Parliament last visited 1st September 2025

Cost of providing independent legal advice and representation

75. We recommend that complainants should have access to publicly funded independent legal advice and representation. This will require adequate funding to compensate legal representatives for their time. See table 5 below.

Table 5: Annual cost of providing legal advice and representation in £million

	Low estimate	Central estimate	High estimate
No. of cases requiring legal representation	291	582	873
Cost of legal representation and prep. @ £176 per hour	£0.41	£1.02	£1.84
Cost of staffing a unit providing legal advice	£3.61	£3.61	£3.61
Total cost	£4.02	£4.63	£5.45

Assumptions:

- Cost of staffing a Unit to provide legal advice based on 60 percent take up of all reported rape cases based on Northumbria case study.[27]
- Number of cases requiring legal representation 5-15 percent of all prosecutions [5820] with 10 percent the central estimate.
- Legal representation and preparation based on estimate provided in Northumbria report of £176 per hour.[28] Combined time of advocacy and preparation 8-12 hours with 10 hours the central estimate.

Annual total cost = £4.63 million [central estimate]

Present value over 10 years = £38.51 million

Complainants' right to appeal

76. We recommend that there should be a route for complainants to appeal a ruling on the admissibility of their SBE. Where this right of appeal is exercised, it will increase hearing time. However, the recommended right of appeal is limited to rulings on the admissibility of SBE made at preparatory hearings, which are a type of pre-trial hearing that is very rarely used for this purpose in sexual offences cases. For this reason, we think the costs associated with this recommendation are negligible.

Expert evidence

77. We recommend that expert evidence of general behavioural response to sexual violence should be admissible. Additional time might be required for determining the admissibility of this new type of expert evidence at pre-trial hearings. Further, additional time may be required at trial for the expert to give evidence. The expert giving evidence would add

[27] See page 68 – cost excludes advocacy expenditure and is uprated to 2024/25 prices https://northumbria-pcc.gov.uk/v3/wp-content/uploads/2023/11/SVCA-Evaluation-Final-Report.pdf

[28] See page 44 – cost excludes advocacy expenditure and is uprated to 2024/25 prices https://northumbria-pcc.gov.uk/v3/wp-content/uploads/2023/11/SVCA-Evaluation-Final-Report.pdf

around 2 hours to the time estimate for the trial. Costs will include court time costs and prosecution and defence solicitors and barristers' preparation and attendance fees. See table 6 below.

Table 6: Annual increased cost of expert evidence £million

	Low estimate	Central estimate	High estimate
No. of cases impacted	116	291	582
Expert Evidence court time [Mins]	60	90	120
Expert evidence prep time [Hrs]	8	9	10
Total cost	£0.11	£0.31	£0.73

Assumptions:

- Expert evidence required in complex cases only, for example in domestic abuse cases where there is an ongoing relationship between the complainant and the defendant.
- Number of cases impacted 2-10 percent of all prosecutions [5820] with 5 percent the central estimate.
- Expert evidence prep time at 8 – 10 hours with 9 hours the central estimate set at the upper limit of £100 per hour.[29]
- Experts' court attendance ranged between 25 percent – 50 percent with 33 percent the central estimate set at the upper limit of £500 per full day.[30]
- Negligible additional Crown Court time required.

Annual total cost = £0.31 million [central estimate]

Present value over 10 years = £2.51 million

Benefits of Option 1

Ongoing benefit

Reduced court time

78. We recommend that there should be a presumption in favour of holding a GRH in sexual offences cases. This will introduce greater efficiency to the trial process, potentially reducing the time required for trials.

Wellbeing benefit to victims

[29] See Costs - Annex 3a | The Crown Prosecution Service.

[30] See Costs - Annex 3a | The Crown Prosecution Service.

79. All of our recommendations will improve the wellbeing of sexual offences complainants, reducing the prospect that they experience trauma as a result of their engagement with the criminal justice process.

80. Our recommendations for a statutory framework for requests for access and production of personal records, paired with independent legal advice and assistance, and accompanied by a code of practice and guidance, will reduce the risk of traumatisation arising from unnecessary access to personal information. These recommendations will also provide greater certainty about when these records can be accessed, meaning that complainants will not be deterred from accessing pre-trial therapy due to uncertainty about whether these records can be used.

81. Our recommended evidential thresholds, paired with independent legal representation will reduce the prospect of intrusive and humiliating questioning. In particular, our recommended threshold for CICE will reassure complainants that they can apply for compensation pre-trial and use that to access support without having to be concerned that this will subsequently undermine their complaint.

82. An entitlement to certain standard measures to assist with giving evidence will help to reduce the traumatisation associated with the process of giving evidence, and ensure that the process for applying for those measures is less stressful. A model of specialist listing for sexual offences trials would enable the incorporation of trauma-informed practice into the courts trying sexual offences, thereby improving complainants' experiences and would reduce delays.

Improved perception of trial process

83. Strengthened procedures which reduce the prospect for invasive questioning and improved access to measures to assist with giving evidence, are expected to increase the likelihood of complainants reporting rape and serious sexual offences. Furthermore, increased support for complainants, such as access to publicly funded legal advice and representation, will improve perceptions of procedural justice in sexual offences cases. Such crimes would otherwise not have been reported, with the risk that they are perpetuated upon others.

84. Furthermore, increased confidence should reduce the number of complainants who withdraw their support of the prosecution which could lead to more perpetrators of sexual offences being prosecuted and convicted. This would reduce repeat offending. However, we cannot reliably estimate the reduction in attrition and re-offending, so cannot cost this impact.

F. Assumptions, Risks and Sensitivity Analysis

85. All significant assumptions or risks associated with this IA have been identified throughout.

86. Our consultation process is comprehensive and methodologically robust, providing a critical foundation for assumptions used in monetisation where possible. Through a combination of written responses, stakeholder meetings, seminars, and targeted engagement with diverse groups including legal professionals, academics, victim support organisations, and the public, we gather a wide spectrum of qualitative and quantitative insights. This breadth of input ensures that subsequent cost-benefit analysis is grounded in real-world perspectives, enhancing the credibility and accuracy of monetisation assumptions.

G. Wider Impacts

Public Sector Equality Duty

87. Having researched extensively and consulted widely with a diverse range of stakeholders, we have not identified any adverse impacts of our policy on people with protected characteristics.

88. Sexual offending has a gendered nature: complainants are predominantly female, and defendants are predominantly male. Therefore, the positive impact of our recommendations which seek to improve the treatment of complainants of sexual offences will mostly (though by no means exclusively) benefit women. These positive benefits include wellbeing benefits resulting from reducing the prospect of traumatisation from engaging with the trial process.

89. Throughout the project we have also been conscious that victims of sexual offending will often experience mental health difficulties, which can amount to a disability by the meaning provided in section 6 of the Equality Act 2010. Consultees explained the various ways that this trauma can impact on complainants' experiences of the trial process. We have sought to address these issues through our recommendations. For example, we heard that concerns about the use of complainants' therapy notes or CICE at trial can deter them from seeking counselling until after the trial. We think that our recommendations will positively benefit this group, by providing greater scrutiny of these applications, thereby reassuring complainants that they can seek the help they need.

90. We have also been conscious of the impact of our recommendations on minority ethnic groups. For example, we received feedback from consultees about the impact of juryless trials and the potential for increased discriminatory outcomes for black and minoritised ethnic defendants. This informed our recommendation to retain juries in serious sexual offences trials.

91. We have completed the Equality Impact Assessment Initial Screening and are not required to complete a further full assessment.

Health impact

92. The health impact has been assessed throughout this impact assessment (see paragraph 89 above).

Justice impact

93. The impact on the legal system has been considered, but its full impact cannot be modelled at this stage because there are gaps in the available evidence.

Additional considerations

94. The Freedom of Information Act 2000, market competition, international trade, economic growth, environment, rural issues, consumer focus, regional perspectives, design quality, and sustainable development have been considered.

95. We have considered the implications for the Human Rights Act 1998 and Data Protection Act 2018 in detail in the report.