EXPLANATORY MEMORANDUM TO

THE PENALTIES FOR DISORDERLY BEHAVIOUR (AMOUNT OF PENALTY) (AMENDMENT) ORDER 2013

2013 No. 1165

1. This explanatory memorandum has been prepared by Ministry of Justice (MoJ) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the Penalties for Disorderly Behaviour (Amount of Penalty) Order 2002 (S.I. 2002/1837) and increases the value of both lower and higher-tier Penalty Notices for Disorder ("PNDs") by £10 from £50 and £80 to £60 and £90 respectively.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (c.16) ("the 2001 Act") introduced a regime for the award of a penalty where a constable has reason to believe that certain specified offences have been committed. The penalties take the form of a penalty notice which can be issued by an authorised constable. A PND is an alternative to prosecution. It does not amount to a conviction and does not require an admission of guilt on behalf of the person receiving the notice. The list of offences in respect of which a PND may be issued is set out in section 1(1) of the 2001 Act and may be amended by order made by the Secretary of State.

4.2 Section 3(1) enables the Secretary of State to set the amount payable in respect of a PND by order; section 3(2) places a condition on the Secretary of State's power to specify that amount. The condition is that the amount must not exceed a quarter of the amount of the maximum fine for which a person would be liable on summary conviction of the offence plus half of the "relevant surcharge". The "relevant surcharge", is by virtue of section 3(2A) of the 2001 Act, the amount payable as a surcharge under section 161A of the Criminal Justice Act 2003 where a person was fined the maximum amount for the offence. The amount of the "relevant surcharge" is currently to be determined by reference to the Criminal Justice Act 2003 (Surcharge) Order 2012 (S.I. 2012/1696).

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This instrument gives effect to proposals published in the MoJ consultation, 'Getting it right for Victims and Witnesses'[1]. The Government response to the consultation was published on 2 July 2012.

7.2 The consultation, 'Getting it right for Victims and Witnesses' sets out the policy intention to ensure that offenders are responsible for greater reparation to victims and to contribute to the cost of victim support services. Central Government in 2010 spent approximately £66m each year on providing such services, with offenders contributing only around £10m through the Victim Surcharge. To redress this imbalance the Government has already implemented the Prisoners' Earnings Act 1996 and introduced provision in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to place a stronger duty on the courts to consider ordering offenders to pay compensation to their victims.

7.3 The Government intends to increase the value of both lower and higher tier PNDs by £10, as set out in this instrument, with the additional revenue to be used to fund victim support services. This measure and the other proposals contained in the consultation will contribute to the stated intention to raise up to an additional £50m for victims' services.

8. Consultation outcome

8.1 The proposals on increasing the amount of the penalty for PNDs, together with a full explanation of the policy and supporting impact and equality impact assessments, were published in MoJ's consultation document 'Getting it right for Victims and Witnesses' and were subject to formal consultation between January and April 2012.

8.2 The consultation included a series of public engagement events.

8.3 Of the responses received on the two questions on PNDs in the consultation, a clear majority of respondents were in favour of increasing PNDs by £10 and using the additional revenue to fund victim support services. There was also considerable support for applying the £10 increase to both lower and upper-tier PNDs although some respondents put forward more nuanced proposals.

[1] https://consult.justice.gov.uk/digital-communications/victims-witnesses/consult_view

8.4 The Government has published a summary of the responses in its response to 'Getting it right for Victims and Witnesses'[2].

9. Guidance

9.1 The Secretary of State's operational guidance to the police and the public on the PND scheme, issued under section 6 of the 2001 Act, will be updated to take account of the changes made by this instrument.

10. Impact

10.1 A full impact assessment relating to the content of this order accompanied the consultation 'Getting it right for Victims and Witnesses' on 30 January 2012. The impact assessment was updated and published on 2nd July 2012 alongside the Government response. The policy has not changed and the MoJ is not aware of any further data which may affect the impact of the instrument. Therefore the original impact assessment has not been amended and a copy of the signed impact assessment from July 2012 accompanies the instrument.

10.2 The equality impact assessment ("EIA") which accompanied the consultation 'Getting it right for Victims and Witnesses' analysed the potential impact of the measures in this order on people subject to the protected characteristics specified in the Equality Act 2010. The EIA was also updated and published on 2nd July 2012 with the Government response. The Government does not consider that any new data which has a potential negative equality impact arising from the proposals has emerged since that EIA was prepared. A copy of the revised EIA from July 2012 accompanies this order.

11. Regulating small business

11.1 This legislation applies only to individuals.

12. Monitoring & review

12.1 The Government is committed to reviewing the operation and implementation of the increase of PNDs. There will be an operational review scheduled at 6 and 18 months and a policy review 3 years after implementation of the reforms.

13. Contact

Martin Hau and Hannah Meyer at the MoJ can answer any questions regarding these instruments.
Tel: 020 3334 5318/2863 or email justicereformdirectorate@justice.gsi.gov.uk.

[2] https://consult.justice.gov.uk/digital-communications/victims-witnesses/consult_view

Ministry of JUSTICE

Getting it right for Victims and Witnesses: Government Response

Equality Impact Assessment

July 2012

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Introduction

This equality impact assessment (EIA) accompanies Part 1 of 'Getting it right for Victims and Witnesses: Government Response'. It is concerned with changes to the commissioning of services for victims and witnesses, review of the Victims' Code, review of the Victim Personal Statement process, review of the Witness Charter, improving restorative justice and improving reparation to victims through increasing and extending of the Victim Surcharge. It applies to England and Wales. There are separate EIAs covering the Criminal Injuries Compensation Scheme and Victims of Terrorism Overseas.

The EIA analyses the potential impact of the reforms on the advancement of equality of opportunity, the fostering of good relations and the elimination of discrimination, harassment, victimisation and other conduct that is prohibited under the Equality Act 2010.

The analysis has been informed by the responses received to the consultation document 'Getting it right for Victims and Witnesses', and builds on the initial EIA that accompanied that document. However, as many of the policy areas discussed here will be developed further in the coming year (for example, the reviews of the Victims Code, the Victim Personal Statement process and the Witness Charter), we will be doing further equalities work as the policies are developed.

This EIA should be read alongside the Government response document and the associated Impact Assessment (IAs).

In this introductory section of the full EIA we set out the relevant legal duties and the background to the reforms, as well as the approach we have taken to assessing potential impacts including the sources of evidence and methodology used.

We then set out each area of reform, as they appear in the response to the consultation. Each of these sections present the consultation proposals; the feedback on the equalities impacts of the proposals that we have received through consultation; and our analysis of the likely impact of the reforms for implementation. (This differs in the section on Supporting victims and witnesses through the Criminal Justice System where a further consultation on a new Victims' Code is intended). We set out our consideration of the impacts identified, how they can be justified and proposals for mitigation.

Equality Duties

Section 149 of the Equality Act 2010 places a duty on Ministers and the Department, when exercising their functions, to have 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
- Foster good relations between different groups (those who share a relevant protected characteristic and those who do not).

The eight relevant "protected characteristics" are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. In having due regard to matters in the first bullet point above, it is also necessary to consider equality impacts in relation to the protected characteristic of marriage and civil partnership.

Direct discrimination is defined in section 13(1) of the Equality Act 2010, as follows:

> *A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.*

Indirect discrimination is defined in section 19 of the Equality Act 2010, which reads relevantly as follows:

> *(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.*
>
> *(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—*
>
> *(a) A applies, or would apply, it to persons with whom B does not share the characteristic,*
>
> *(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,*
>
> *(c) it puts, or would put, B at that disadvantage, and*

> *(d) A cannot show it to be a proportionate means of achieving a legitimate aim.*

In relation to discrimination arising from disability and the duty to make reasonable adjustments, Section 15 of the Equality Act 2010 states:

> *A person (A) discriminates against a disabled person (B) if—*
>
> *(a) A treats B unfavourably because of something arising in consequence of B's disability, and*
>
> *(b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.*

Sections 20 and 21 of the Equality Act 2010 also impose a duty to make reasonable adjustments where a disabled person is placed at a substantial disadvantage in comparison with a non-disabled person.

Harassment and victimisation are defined in sections 26 and 27 of the Equality Act 2010 as, respectively, certain forms of unwanted conduct related to relevant protected characteristics and subjecting a person to a detriment in certain circumstances.

Summary

This equality impact assessment (EIA) relates to the document *"Getting it right for victims and witnesses: Government Response"*

The EIA covers the following policy areas:

- Commissioning framework for services for victims of crime
- Commissioning victim services
- Supporting victims and witnesses through the Criminal Justice System
- Restorative Justice
- Increasing and extending the Victim Surcharge

We have considered the policy reforms in accordance with our obligations under the Equality Act 2010[1]. The following is a summary of our overall assessment. More detail of the impacts is given in the analysis in the individual policy areas below.

Direct discrimination

The reforms relating to the commissioning of victim services, supporting victims and witnesses through the CJS and restorative justice are not expected to treat anyone less favourably than others because of a protected characteristic. We therefore do not consider that there will be any direct discrimination resulting from these reforms.

We have considered whether the Surcharge reforms would give rise to the possibility of an offender being treated less favourably because of a protected characteristic. The Surcharge reforms would apply to all people irrespective of any protected characteristic. There is differential treatment in relation to how the Surcharge will be applied to offenders of different ages. Such treatment will not amount to direct discrimination for the purposes of the 2010 Act where it can be justified as a proportionate means of achieving a legitimate aim. We believe that this is the case here as we consider any such impact to be justified on the basis that our aim is that as many offenders as possible should bear a greater proportion of the costs incurred by the state in supporting victims to cope and recover following crime. We believe that the Surcharge reforms are a proportionate way of doing this, since they seek to reflect the seriousness of the sentence: an offender will be ordered to pay a higher Surcharge where a sentencer has imposed a more onerous sentence.

[1] We have analysed the potential equality impacts of the reforms against each of the limbs of the public sector equality duty and across each of the protected characteristics, even though "marriage and civil partnership" is not a "relevant characteristic" for the purposes of the second and third limbs of the public sector equality duty, and Part 3 of the Equality Act 2010 (Services and Public Functions) has not been commenced in relation to age.

Indirect discrimination

We consider that the majority of the reforms do not have the potential to be indirectly discriminatory within the meaning of the Equality Act 2010.

The commissioning reforms will be undertaken fairly, promoting diversity of providers and ensuring providers comply with their equality duties. There may, however, be some potential for indirect discrimination if some groups are treated less favourably than others in the commissioning process (e.g. if some services targeted at protected characteristics are commissioned while others are not). However we consider those most in need to be those who are victims of serious crime, those who are most persistently targeted and those who are most vulnerable so would expect funding and services to be targeted at these individuals, some of whom may have protected characteristics

Some services which will be commissioned nationally, will be aimed at women (and in some cases foreign nationals), who for some types of crime are affected more than men. We can therefore justify that these services are nationally commissioned because of the high prevalence of women being victims of these crimes.

We will consider whether there would be the potential for any indirect discrimination as we review and draft a new Victims Code and review the Victim Personal Statement scheme and the Witness Charter. We will be undertaking further EIAs on these areas of the reforms.

The reforms on the Surcharge and PNDs will apply to those who share a protected characteristic and those who do not. Our analysis shows that where offenders with particular protected characteristics are over-represented in the criminal justice system, they are more likely to be subject to the Surcharge/PND than the general population, with those aged 18-39, males and those from the Black ethnic group over-represented. We have also identified that offenders in certain groups are likely to pay a higher Surcharge, these being older age groups, those from the “Other” ethnic group and males. There are potential differential impacts in relation to a person’s ability to pay the Surcharge/PND, with evidence suggesting that offenders aged 30-59, the White and Mixed ethnic groups and women are more likely to be on out-of-work benefits. We also know that disabled people in the general population are more likely to have lower household incomes. Related to this, there is the potential for particular financial hardship on adult/juvenile offenders and their dependants/families due to their limited means. Issues were also raised by several respondents to the consultation, relating to families of offenders paying and the impact on younger age groups due to their potentially lower disposable income.

We set out our analysis of differential impacts together with relevant evidence concerning the potential impacts arising from the Surcharge reforms within this EIA. Were it established that these effects constituted a particular disadvantage, which could have indirect discriminatory effects, we consider any such impact to be justified on the basis of our aim that as many offenders as possible should bear a greater proportion of the costs incurred by the state

in supporting victims to cope and recover from the effects of crime. We believe that the Surcharge reforms are a proportionate way of doing this, since they seek to reflect the seriousness of the sentence imposed by the court: an offender will be ordered to pay a higher Surcharge where a sentencer has imposed a more onerous sentence.

Discrimination arising from disability and duty to make reasonable adjustments

The commissioning reforms will aim to advance equality of opportunity for disabled people. We will ensure that victims and witnesses with physical disabilities and those with mental health issues have reasonable adjustments made by providers in relation to their needs to ensure fair and equal access to any commissioned services.

We will consider potential issues of discrimination arising from disability as we develop the new Victims Code and carry out other work on supporting victims and witnesses through the Criminal Justice System.

Within the restorative justice reforms we recognise that needs assessment is an important part of the process of identifying what type of support a victim or offender will require so we will identify the best mechanism for assessing need. This includes taking into consideration needs such as learning disabilities or mental health, and ensuring sufficient safeguards and factors are put in place.

In so far as the Surcharge reforms apply to disabled people, we believe that the policy is proportionate, given the aim that more offenders should contribute to the cost of victim services. We do not consider it necessary to make any reasonable adjustments to the policy in respect of disabled people, for example, by not extending the Surcharge to them, given the overall aim of the policy which is that as many offenders as possible should contribute through the Surcharge. An equality consideration raised during the consultation was with regards to individuals with certain disabilities not understanding what the Surcharge is. We will therefore be working with sentencers to increase awareness of the Surcharge and the benefits arising from it. We intend that this will better enable the effective communication of the implications of the Surcharge to those offenders, who, for example, have learning disabilities.

Harassment and victimisation

We do not consider there to be a risk of harassment or victimisation within the meaning of the Equality Act as a result of these reforms.

Advancing equality of opportunity

We have had regard to the advancing equality opportunity aspect of the equality duty against all the different reforms, including having due regard to the need to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics.
- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people.
- Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

Having considered the above, we do not believe that any of the reforms have the potential to remove or minimise disadvantages suffered by people due to their protected characteristic. The commissioning reforms planned should enable victim services to target support at those most in need, which will include those with a protected characteristic (i.e. women/girls). We do not believe that the reforms will necessarily do anything to encourage people with protected characteristics to participate in public life, although it may be that women and disabled victims and witnesses are more likely to report offences as victims and/or act as witnesses.

Fostering good relations

Fostering good relations is regarded as tackling prejudice and promoting understanding between people from different groups. The restorative justice reform could be seen to be promoting understanding between people from different groups as it is an opportunity for victims to have their say and seek answers to questions they may have of the offender. It also helps encourages offenders to face up to the consequences of their actions and to seek to make amends as a result.

We have also considered the fostering good relations aspect of the Equality Duty and do not believe that this has any relevance to the commissioning and Surcharge reforms as they do not focus on tackling prejudice or promoting understanding.

Conclusion

We have considered the potential impacts of the victim and witness reforms against the obligations under the Equality Act 2010 and those are set out in the ‘Analysis of potential impacts’ sections. Our assessment is that the overall impacts are likely to be mainly positive for victims and witnesses with protected characteristics, while being more mixed for offenders with protected characteristics. We acknowledge there are a number of gaps in the research and statistical evidence we have been able to source regarding the potential impact of our reforms in respect of a number a number of protected characteristics.

Overall, having had due regard to the potential differential impacts identified in this EIA, the government is satisfied that it is right to pursue these proposals. To this extent the proposals are considered to be a proportionate means of achieving a legitimate aim in the reform of victim and witness services.

Background to the Reforms

Successive governments have funded a wide range of support services for victims and witnesses over many years. However, there has been no consistent, strategic approach to commissioning victims' services. Decisions about what to fund, where, and when, have often been taken in isolation by a range of decision makers without a consensus about the aims of providing support.

The Domestic Violence, Crime and Victims Act 2004 created a statutory duty to issue a Code of Practice for Victims of Crime. In 2006 the first Code of Practice set out the services to be provided to victims of crime in England and Wales by criminal justice agencies. In 2007 the Witness Charter was implemented establishing a clear set of expectations for witnesses in the criminal justice system.

The Code and Witness Charter raised the profile and awareness of the needs of victims and witnesses in a criminal justice system focused primarily on bringing offenders to justice. But the Code and Charter need updating. The Code is out of date but, more pertinent than that, it is process orientated and it is not easy for victims to understand what services they can expect criminal justice agencies to provide. This has an adverse impact on victims, and it is also inconsistent with the Government's policy of reducing regulation and bureaucracy.

Following a public consultation, the Domestic Violence, Crime and Victims Act 2004 amended the Criminal Justice Act 2003 by introducing a duty on a court to order a Surcharge when it deals with an offender for one or more offences. The Victim Surcharge was implemented in April 2007 and was set at a flat rate of £15 on all fines. It was always intended that the Surcharge would be payable when an offender was sentenced to other disposals including custodial and community sentences.

Reforms proposed in Part 1 of the consultation document 'Getting it right for Victims and Witnesses' were based on the following principles:

- **Practical and emotional support should be given to those who need it most.** We think that funding for support should be directed as a priority to victims of serious crime, those who are most persistently targeted and the most vulnerable.

- **Victims should receive help as and when they need it**. Our approach to funding and commissioning victim services will recognise the importance of ensuring that practical and emotional support is on hand immediately after the crime has been committed, and that victims' needs change over time.

- **Services should meet the different needs of communities across the country**. Different localities suffer from different levels and types of crime. While victims must have clear, national expectations about how they will be treated and the support on offer, local services must have the flexibility to meet the different and changing needs.

- **Offenders should make reparation for the impact of their crimes**. We want to see a shift away from compensation funded by the taxpayer to a situation in which more offenders take personal responsibility for the harm they have caused by offering an apology or by making the appropriate financial or practical reparation.

Taken together, these principles will ensure that the taxpayer receives much greater value for money from Government spending on victim and witness services.

Methodology and Evidence Sources

Methodology

This EIA draws upon a number of evidence sources. We have used the best quality evidence available, which is mainly national or official statistics, but have also drawn on other sources where appropriate. A full list of data sources can be found at Annex C.

We have also considered evidence contained in the responses to the consultation.

We have considered how victims with different protected characteristics might be affected by the reforms intended to focus on those most in need. We do not have sufficient data on whether victims with protected characteristics will be over or under represented in the group of victims who will be assessed as those most in need. In assessing potential impacts, we have undertaken the following analysis. We have:

- examined how the risk of becoming a victim of crime varies by protected characteristics, from the Crime Survey for England and Wales (CSEW),[2] to assess whether some victims (in terms of protected characteristics) may be more likely to be affected by the reforms, both in terms of being more likely to be a victim of crime and being more likely to be a victim of certain crimes (e.g. violent crime);

- used the Witness and Victim Experience Survey (WAVES) to examine what proportion of victims and witnesses had contact with the Witness Service, Victim Support and reported having support needs and how this varies by protected characteristics, to assess whether there is the potential for differential impact in relation to the policy reforms.

This information is presented at Annex A, and summarised under the relevant policy reforms 'analysis of potential impacts'.

We have also considered how offenders might be affected by the reforms relating to the Victim Surcharge.

The Surcharge will be payable in cases where a court deals with an adult offender by way of:

[2] The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales (CSEW) to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

a) a conditional discharge at a flat rate of £15;

b) a fine at 10% of the fine value, with a minimum amount of £20 and a maximum cap for the Surcharge ordered on fines at £120;

c) an adult community sentence at a flat rate of £60;

d) a sentence of imprisonment, including where suspended, at £80 for a sentence of 6 months and below; at £100 for a sentence of over 6 months and up to 2 years; and at £120 for a sentence over 2 years;

The Surcharge will be payable when a court deals with a juvenile offender by way of:

a) a conditional discharge at a rate of £10;

b) a fine or community sentence at a rate of £15; and

c) a custodial sentence of any length at a rate of £20.

We will also increase the value of PNDs by £10 on both lower and higher tier notices: the additional revenue will be spent on victim services.

In doing so, we have undertaken the following analysis. We have:

- examined the extent to which offenders subject to particular protected characteristics would be required to pay the Victim Surcharge under the reforms and whether they are over or under-represented compared to the general population; a comparison against the general population has been made as under the reforms the vast majority of offenders will be required to pay the Surcharge and so we cannot compare against the total offender population;

- examined the extent to which extending the Surcharge from fines (the only disposal on which the Surcharge is currently payable) to other disposals may have a larger impact on offenders with particular protected characteristics who previously did not have to pay the Surcharge;

- calculated the estimated average Surcharge (based on 2011 sentencing statistics) under the reforms drawing comparisons between groups of people with particular protected characteristics; and

- examined whether groups with protected characteristics may be more likely to be on a low income, and therefore differentially affected in general by the imposition of the Surcharge. We have used out-of-work benefit status data from the joint DWP / HMRC / MoJ data share as a proxy for low income. This proxy measure is one way to reflect the

likelihood of the offender population being on a low income, but we have been unable to take into account other factors which may also indicate this such as low earnings or limited hours at work.

We have also examined the potential impacts of the 6 individual policy elements that encompass the Surcharge and PND policy package as outlined in the Impact Assessment.

In doing so, we have analysed the extent to which offenders subject to particular protected characteristics would be required to pay the Victim Surcharge under each of those individual policy elements, and whether offenders are over or under-represented compared to the general population;

This information is presented at Annex B, and summarised under the relevant policy reforms' 'analysis of potential impacts'.

The following assessments only explore equality impacts arising from the policy reforms in relation to the groups affected by the reforms. They are not intended to provide an assessment of the wider factors at play which may explain observed differentials in the distribution of protected characteristics at each stage of the criminal justice system. Such an analysis would consider the extent to which factors other than equality characteristics (such as offence type and offending history) might contribute to the over- or under-representation of particular groups. Two MoJ statistics publications provide some of this more detailed analysis: "Statistics on Race and the Criminal Justice System" and "Statistics on Women and the Criminal Justice System".

Data sources

The CSEW includes data on race, disability, gender, age, sexual orientation, religion and marital status for victims of crime. Limitations with the data from the CSEW are summarised below:

- The CSEW is a survey conducted face-to-face in which people resident in households in England and Wales are asked about their experiences of a range of household and personal crimes. It excludes a number of types of crime, such as fraud, crimes against commercial premises, and homicide. The CSEW survey of adults includes those aged 16 and over, experimental statistics are also available for 10-15 year olds, and have been presented where appropriate.

- The differences in the risk of victimisation from CSEW between groups with protected characteristic may be at least partly attributable to other factors associated with those groups. In addition, the protected characteristics themselves are highly interrelated. For example previous research[3] has shown that age and ethnicity are interrelated, with the proportion of young people in the Mixed ethnic group found to be large in comparison to other ethnic groups.

[3] Home Office Statistical Bulletin 07/08: Crime in England and Wales 2007/08: Findings from the British Crime Survey and police recorded crime.

- Percentages calculated from the CSEW are subject to a margin of error, and apparent differences may not be statistically significant. The CSEW analysis presented focuses on where statistically significant differences were found in the data.

- Where the number of respondents to the survey in sub-group analysis was fewer than 30 the data has not been presented as the small number of cases prevents robust analysis. For some analysis, data from two years of the survey have been combined to allow for more robust sub-group analysis.

- See the User Guide to Home Office Crime Statistics for further details: http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/user-guide-crime-statistics/

WAVES includes data on gender, ethnicity, disability and age. Limitations with the data from WAVES are summarised below:

- WAVES conducted telephone interviews with victims and prosecution witnesses aged 18 and over whose cases resulted in a charge, after the case has closed. WAVES covers the following crime types: violence against the person; robbery; burglary; criminal damage; theft and handling stolen goods. Victims and witnesses in sensitive cases, such as sexual offences or domestic violence, crimes involving a fatality, and any crime where the defendant was a family member or a member of the victims' or witnesses' household, are not included. WAVES also excludes police officers or other CJS officials assaulted in the course of duty, and all police and expert witnesses.

- Percentages calculated from WAVES are subject to a margin of error, and apparent differences may not be statistically significant. The WAVES analysis presented focuses on where statistically significant differences were found in the data.

- See Ministry of Justice Research Series 1/12: Satisfaction and willingness to engage with the criminal justice system: Findings from the Witness and Victim Experience Survey, 2009–10 for further details: http://www.justice.gov.uk/publications/research-and-analysis/moj/satisfaction-and-willingness-to-engage-with-the-criminal-justice-system2

Data on court disposals are from the Court Proceedings Database. This holds information on defendants proceeded against, found guilty and sentenced for criminal offences in England and Wales. It includes information on the defendant's age, gender, ethnicity, the police force area and court at which proceedings took place as well as the offence and where relevant, the legislation creating the offence.

Data on sentenced receptions of prisoners by religion are based on further analysis of Offender Management Caseload Statistics.

Data on disability, lone parent and marital status of offenders starting community orders are drawn from the Offender Management Community Cohort Study (OMCCS), which tracked a cohort of adult offenders who commenced a community order between October 2009 and December 2010. The data presented is based on an interim dataset, including a total of 2,595 interviews, representing a response rate of 39 per cent. Data on the mental and physical health, and marital status, of adult offenders in custody are from the Surveying Prisoner Crime Reduction prisoner survey. This was a study in 2005/6 of 1,435 newly sentenced adult prisoners, sentenced to less than 4 years imprisonment, in England and Wales.

Data on the general population of England and Wales by gender, age, marital status and ethnicity are from the Office for National Statistics mid-year population estimates. Data on the general population by religion for England and Wales are from the 2010/11 Integrated Household Survey. Estimates of the general population with a disability are from the Office for Disability Issues estimates on the prevalence of disability.

In 2010-11 the Ministry of Justice (MoJ), the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC) undertook a data sharing project. The aim of the data-share is to improve the evidence base on the links between offending, employment and benefits to support policy development. Further information about the data share and key findings can be found in the following publication: http://www.justice.gov.uk/downloads/statistics/mojstats/offending-employment-benefits-emerging-findings-1111.pdf

This publication includes findings on out-of-work benefit[4] status at the time of sentence for all disposals in the year to 30th November 2010, and illustrates that offenders are more likely to be claiming out-of-work benefits than the working age general population. Analysis in this EIA uses these findings broken down by sentence type and protected characteristics, for those sentences that would be subject to the Surcharge. Annex E details the caveats and limitations of this data source.

Evidence gaps

Victims and witnesses

We have not included an analysis of data relating to victims and witnesses with the protected characteristics of gender reassignment, civil partnerships, or pregnancy and maternity, as the CSEW does not include data on these characteristics. WAVES does not include data on: marital status and civil partnership; religion; sexual orientation; gender reassignment; or pregnancy and maternity.

[4] Out-of-work benefits include Job Seekers Allowance, Incapacity Benefit, Passported Incapacity Benefit, Severe Disablement Allowance, Employment and Support Allowance, and Income Support

For these reasons, we cannot present a comprehensive picture in relation to all the protected characteristics, but have instead presented more specific data sets on occasion.

The data analysis using the CSEW uses a different definition of an adult than that used in the criminal justice system. In the criminal justice system, adults are defined as those aged 18 and over. The CSEW survey defines adults as those aged 16 and over.

The analysis of victims' and witnesses' with experience of the CJS does not include the views of those under 18, as WAVES data does not include those aged under 18.

Offenders

Information on the protected characteristics of gender reassignment, disability, pregnancy and maternity, sexual orientation, religion or belief or marriage and civil partnership in respect of offenders may be held by the courts on individual case files. However, it has not been possible to collate these data for this EIA because of the associated cost and resource implications. Some information on disability and marriage or civil partnership is available from two cohort studies of offenders starting community and custodial sentences.

As part of the consultation we sought comments specifically on the equality impacts of the reforms and for any information that could be provided to improve our evidence base.

Consultation and engagement

"Getting it right for Victims and Witnesses" was out for consultation for 12 weeks. We have reviewed responses from a range of interested parties including members of the public, CJS professionals, organisations representing victims and witnesses and victims and witnesses themselves. The consultation paper also included three questions that sought comments specifically on the potential equality impacts of the reforms and for any information that could be provided to improve our evidence base.

We also held the following events throughout the course of the consultation period:

- two events in London and Manchester covering all proposals set out in the consultation;
- four events in Cardiff, Birmingham, Peterborough and York focussing on proposals on commissioning and victims' experience of the CJS;
- one event in Edinburgh hosted by the Scottish Government on the Criminal Injuries Compensation Scheme;
- an afternoon seminar in London on the equality impacts of all the proposals

In total, our eight events were attended by about 300 people from some 200 organisations and we received over 350 written responses to the consultation.

Analysis of potential impacts - Commissioning framework for services for victims of crime

Policy Reform

We will develop an outcomes-based commissioning framework to assist local commissioners (Police and Crime Commissioners (PCC)) and the national commissioner (Ministry of Justice) in determining which services to commission and how to measure success. The commissioning framework will focus on the outcomes of "cope" and "recover", which services for victims should aim to achieve and against which it is proposed they should be judged. In it we will also define a set of categories that describe the needs which should be met in order for a victim to cope with and recover from crime, which the funding received should be used to meet.

Analysis

Using the CSEW and WAVES, we have considered information on the risk of becoming a victim of crime and victim and witness access to support by demographic characteristics to further understand the potential equality impacts of these reforms. The results are presented in Annex A. We have identified the potential for differential impacts in relation to age, disability and ethnicity. Young people, those with disabilities and those from Black and Minority Ethnic (BME) groups are at increased risk of victimisation of certain crimes. However, the available data suggests that in some cases they may be less likely than other groups to get the support that they need. In addition, the CSEW data shows that those with no religion and gay, lesbian and bisexual people are at increased risk of victimisation in relation to certain crimes.

Some consultation respondents suggested that women could be disadvantaged by the creation of an outcome based commissioning framework if it was not developed in conjunction with organisations who specialise in sexual and domestic violence services. It was suggested that if a framework was developed which did not meet the specific needs of women, then this would likely mean that more generic services would be commissioned which may compromise women's equality.

Victims with needs prioritised by the PCC or, at national level, the Ministry of Justice, will benefit from resources being put into services that meet their needs, with commissioners using an outcomes based commissioning framework to procure those services which will help those affected by serious crime, those who are most vulnerable and those who are most persistently targeted. The introduction of a commissioning framework will also mean that commissioners and providers will be able to better identify and measure the outcomes of services to victims irrespective of what protected characteristics they may have.

Services for victims are likely to be more effectively monitored because providers will be able to better measure the efficacy and outcomes of their interventions, and will be incentivised to improve outcomes for victims. In addition, resources may be redirected to more cost-effective services, again resulting in better outcomes for victims. Victims with needs that are not prioritised by the relevant commissioner could have reduced access to services as a result of government funding being reallocated.

We have no evidence to suggest that the reforms for an outcomes based commissioning framework will lead to victims with relevant protected characteristics being treated less favourably, resulting in discrimination, harassment, victimisation, or any other conduct prohibited by the Equality Act.

We also do not have evidence to suggest that the policy will prevent the advancement of equality of opportunity between different groups or prevent the fostering of good relations between different groups.

Mitigation and justification

The concern raised about the potential disadvantage to women as a result of an outcomes based commissioning framework could apply to a number of the protected characteristics. We will involve victim organisations, service providers and equality groups in the development of the commissioning framework. The Ministry of Justice is currently managing research, in the form of an Evidence and Practice Review, which will inform development of the commissioning framework.

PCCs will be bound by the Equality Act 2010 so must have due regard to the need to eliminate discrimination, harassment or victimisation, to advance equality of opportunity between person who share a protected characteristic and those who do not and to foster good relations between those who share a protected characteristic and those who do not.

We will continue to examine any potential equalities effects as the framework is developed.

Analysis of potential impacts - Commissioning victim services

Policy Reform

We will take a mixed approach to commissioning victims' services, with certain specialist services (some of which will focus on low-volume but high-impact crimes), commissioned nationally by the Ministry of Justice and other victims' services commissioned locally by Police and Crime Commissioners (PCCs). This will help ensure that support is better targeted and meets local need. Areas differ in the types of crime that they experience, so victim services should reflect the needs of the community.

The new approach will ensure that victims who are assessed as most in need of support should receive a better service than at present.

We consider those most in need to be:

- **Victims of serious crime.** Crime type never tells the full story, which is why we want to empower professionals to exercise their judgement in assessing needs, but there should be a working assumption that victims of serious crime may well require significant support.

- **The most persistently targeted.** Crime, even seemingly less serious crime can have a devastating impact on victims when repeated continually over a period of time, particularly where a person is deliberately targeted. This should be taken into account as needs are assessed, and support provided.

- **The most vulnerable** - people who are most likely to become victims, or who need particular assistance in coping with the consequences of crime or to engaging with the criminal justice system. This might, depending on the circumstances, include people who are isolated, or who lack social or family support; those who need assistance in managing their own affairs; those who by reason of, e.g. age or medical condition, are more likely to be a victim of crime than members of the community generally, or less able to cope with the consequences if they do; and those who are able to benefit from additional or special measures in relation to court proceedings.

The services which we intend to commission nationally will provide support for:

- victims of trafficking
- those bereaved by homicide
- victims of rape (through rape support centres)
- some national telephone helplines
- the witness service

Analysis

As discussed above in relation to the commissioning framework for services for victims of crime, we have identified the potential for differential impacts of these reforms in relation to age, disability and ethnicity using the CSEW and WAVES (see Annex A). Young people, those with disabilities, and those from BME groups are at increased risk of victimisation of certain crimes. However, the available data suggests that in some cases they may be less likely to get the support that they need but we do not know why support isn't accessed because the data does not cover this. In addition, the CSEW data shows that those with no religion and gay, lesbian and bisexual people are at increased risk of victimisation in relation to certain crimes.

Local / national commissioning

Overall, victims will benefit positively from improvements in the suitability and quality of services resulting from additional research into their needs and a more rigorous commissioning process. In addition, the commissioning process is expected to shift resources toward victims most in need. This will benefit these victims; we believe that some victims who have the greatest level of need do not get the support they require under the current system of funding services. However, any negative impacts may be offset to some extent, as those victims assessed as low need, may receive a lower level of support than the current universal service.

We do not have sufficient data on whether victims with protected characteristics will be over or under represented in the group of victims who will be assessed as those most in need and so have not been able to assess at this stage if the reform to target resources at those most in need might lead to indirect discrimination. The same could be said of those services which will be commissioned nationally which could result in services for other groups not receiving the appropriate funding or priority which may result in indirect discrimination of groups, some with protected characteristics.

Commissioning services locally allows for decisions to be taken with greater knowledge of local need. Continuing to commission at a national level those services that support the victims of low-volume, high-impact crimes ensures that there won't be under provision where local need may be low. These reforms should lead to the needs of more victims being better met, whatever protected characteristics they may have, and thus may advance equality of opportunity between groups of people who share a protected characteristic and those who do not.

Some respondents to the consultation question on the equality impacts of the reforms suggested that local commissioning could cause discrimination against women by not allowing them to access the support they require because these services have the potential not to be commissioned by a local commissioner. This could be said for a number of the protected groups.

Our plans to commission services nationally for victims of trafficking and for victims of rape through rape support centres may have a positive impact on women. These services will be used by a greater proportion of women than men, based on the evidence set out below.

Women are more likely to be victims of rape and sexual assault than men; Table A3 in Annex A shows that 3 per cent of women aged 16-59 were victims of a sexual assault in the last year compared to less than 1 per cent of males. Data from the 2010/11 CSEW on experience of sexual assault (including attempts) since the age of 16 shows that 19% of women and 2% of men had been victims; equivalent to an estimated 3 million female victims of sexual assault, and 404,000 male victims.[5]

This suggests that our plans to nationally commission rape support centres for victims of rape will have a positive impact on women and will be used by a greater proportion of women than men. As the majority of rape support centres are open to women, national commissioning will ensure that this specialist type of service is maintained and strengthened. Where rape support centres offer their services to women, men and children, national commissioning will also be beneficial because these centres will be able to offer a sustained service for all parts of the community. Past experience of commissioning rape support centres at a local level saw many of these centres close as local commissioners did not put adequate funding into the services. This had a detrimental impact on victims of sexual crime who were (and still are) primarily women. Nationally commissioning rape support centres, increasing the resources available to the sector and improving sustainability should ensure that these services are maintained and will improve service provision.

We do not know for certain how many victims of trafficking there are in the UK. Data from the National Referral Mechanism,[6] which supports people identified as potential victims of human trafficking, show that 1,481 potential victims of trafficking were identified between April 2009 and March 2011. Of these, 72% were female. Furthermore, the vast majority of victims of trafficking will be foreign nationals. Since there are relatively low numbers of victims of this type of crime, leaving this service to be commissioned locally could risk provision of services because low numbers of victims in an area might result in services not being commissioned. This would negatively impact on women and foreign

[5] Home Office Statistical Bulletin 02/12: Homicides, Firearm Offences and Intimate Violence 2010/11: Supplementary Volume 2 to Crime in England and Wales 2010/11, table 3.02.

[6] The National Referral Mechanism (NRM) is a framework for identifying victims of human trafficking and ensuring they receive the appropriate protection and support. The NRM was introduced in 2009 to meet the UK's obligations under the Council of European Convention on Action against Trafficking in Human Beings. At the core of every country's NRM is the process of locating and identifying "potential victims of trafficking". The NRM is also the mechanism through which the UK Human Trafficking Centre collects data about victims. This information contributes to building a clearer picture about the scope of human trafficking in the UK. The data is published here: http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics

nationals who are the primary victims of this type of crime, as support would not be available.

We do not have comprehensive data on the protected characteristics of those bereaved by homicide. Some information on the characteristics of bereaved people being supported by Victim Support's Homicide Service was obtained by the Victims' Commissioner for a Review into the Needs of Families Bereaved by Homicide;[7] this showed that around two-thirds of bereaved individuals being supported were female. Data on the number of children being supported was provided,[8] however from the information available it is not possible to assess the proportion of children being supported by the Homicide Service as a proportion of all those being supported. This information only relates to one support service for bereaved people, and the data was not routinely collected for all people being supported by this service, therefore it is not possible to draw firm conclusions about the impact of the proposal to provide support to victims of those bereaved by homicide on individuals with protected characteristics. As with sexual crime and trafficking, there are relatively low numbers of individuals bereaved by homicide and of those who do access the service, it is mostly women. Again, leaving this type of low volume service to be commissioned nationally could mean that services are not provided which would have a negative impact on those who predominately require the service i.e. women who have been bereaved by homicide.

PCCs

We have no evidence to suggest that having PCCs, as opposed to other bodies, commission victims' services would give rise to equality impacts.

Decisions taken by PCCs and the service providers (private, voluntary and, community based organisations and public sector bodies) that they commission will be subject to the public sector equality duty in respect of any public function they undertake. The service provider may also be subject to the public sector equality duty in their own right if they are themselves public sector bodies. Services for victims will be targeted at those most in need. This will cover those who are victims of serious crime, the most vulnerable, or the most persistently targeted, whatever protected characteristics they may have.

Data from CSEW on levels of confidence in the local police suggests that younger people are less confident than older people, men are less confident than women, and people from a Black or Mixed ethnic background are less

[7] Victim Support's Homicide Service provided demographic information about those being supported by the service in March 2011. In total, information was provided for 520 households and 732 individuals being supported; this represented 292 cases in contact with the homicide service. The Victims' Commissioners' Review into the Needs of Families Bereaved by Homicide is available here: http://www.justice.gov.uk/downloads/news/press-releases/victims-com/review-needs-of-families-bereaved-by-homicide.pdf

[8] 323 children under 16 were recorded as being part of families that were being supported.

confident than white people.[9] There may be a risk that these groups are less likely to engage with PCCs therefore they may be disadvantaged by not having their views and needs represented.

Mitigation and justification

We will ensure that equality impact assessments are part of the commissioning process at the national level and will encourage PCCs to make use of this type of assessment during the commissioning process. As already noted above, PCCs are subject to the Equality Act 2010 so must have due regard to the need to eliminate discrimination, harassment or victimisation and to advance equality of opportunity between persons who share a protected characteristic and those who do not and to foster good relations.

Some services which will be commissioned could be seen to indirectly discriminate against other groups, some of whom may have protected characteristics because services for other groups might not be commissioned as a result. We can justify this because we consider those most in need to be those who are victims of serious crime, those who are most persistently targeted and those who are most vulnerable. Services which are commissioned for those most in need may well include those who are part of a group with a protected characteristic.

We recognise that needs assessment is an important part of the process of identifying what type of support a victim (which maybe based on their protected characteristic) will require so we will identify the best mechanism for assessing need at all stages, and who will be responsible for conducting needs assessments.

[9] Home Office Statistical Bulletin 12/10Crime in England and Wales 2009/10: Findings from the British Crime Survey and police recorded crime, table 5.20.

Analysis of potential impacts - Supporting victims and witnesses through the Criminal Justice System

Policy Reform

In the Government response we set out our commitment to:

- consult on a new draft Victims' Code next year, taking into account the responses received and the equality issues raised during the consultation;
- review the Victim Personal Statement (VPS) scheme, before including an obligation to offer a VPS in the new Victims' Code;
- develop an improved system through which businesses which are victims of crime can explain the impact of a crime;
- review the Witness Charter.

Analysis

An initial equalities analysis was undertaken when the consultation was launched (see also Annex A). We will consider the responses and continue to analyse the potential equality impacts as we draft the new Victims' Code and develop our work on supporting victims and witnesses through the Criminal Justice System. This will include considering the services that should be available to witnesses of crime

Some of the issues raised during the consultation, and that we will consider in our ongoing work, were around accessibility of processes and information for particular groups with protected characteristics; in particular children and young people, older people, those with mental health issues, learning difficulties and other disabilities, and gay, lesbian and transgender people. There were also suggestions concerning why some people with protected characteristics have difficulties accessing the CJS and how to improve systems and processes to enable those with protected characteristics to obtain equal access to CJS services.

Next steps

We will consult on a new Victims' Code next year and will undertake an equality impact assessment when reviewing the Victims' Code, which will be published as part of the consultation.

We will carefully consider the equality issues raised in the responses received to the 'Getting it right for Victims and Witnesses' consultation as we review the VPS scheme and the Witness Charter.

We propose to consider the responses on how services and support for witnesses throughout the criminal justice system can work together better to inform the wider programme of work on reforming the CJS. We will consider how to reflect the needs of those with protected characteristics when reviewing services and support for witnesses.

Analysis of potential impacts - Restorative Justice

Policy Reform

We want to continue to drive up the use of evidence based, best practice restorative justice ensuring more victims receive the opportunity to participate in a restorative justice process.

We do not want to be overly prescriptive about this. Instead, we plan to develop a cross-criminal justice system framework for restorative justice later this year to support local practitioners in the use of restorative justice. We will draw upon existing evidence and practices that are already in place with the aim of spreading best practice across the system. In addition we will:

- include restorative justice for offenders of all ages in the new Victims' Code;
- consider how we can broaden the use of restorative justice for more serious offences, whilst ensuring sufficient safeguards for victims are in place, as outlined in the published consultation on community sentences;
- seek to formalise the process of considering the suitability of cases for restorative justice, for example through greater use of the Victim of Crime letter and Victim Personal Statement.

Analysis

Impact on victims

Used in the right way, an increase in the use of restorative justice could result in increased victim satisfaction. A joint Home Office and Ministry of Justice commissioned evaluation of a number of restorative justice pilots found that 85 per cent of victims who participated in the restorative process said they were satisfied with the experience[10]. The evaluation also found that when looking at these pilots together, they were effective in reducing the frequency of reoffending. Recent further analysis of the data by the Ministry of Justice has suggested that the size of this impact was around 14 per cent.

There may be social benefits if the likelihood of reoffending of offenders who participate in restorative justice is lower than that of offenders who do not.

Using the CSEW, we have considered information on the risk of becoming a victim of crime by demographic characteristics to further understand the

[10] Shapland, J et al (2008) "Does restorative Justice affect reconviction: The fourth report from the evaluation of three schemes" Ministry of Justice Research Series 10/08

potential equality impacts of these reforms. The results are presented in Annex A. The analysis presented assumes there may be a greater impact on those groups that are currently at greatest risk of experiencing crime. We have identified the potential for differential impacts in relation to age, religion and sexual orientation; young people, those with no religion and gay, lesbian and bisexual people are at increased risk of victimisation in relation to certain crimes.

Impact on offenders

More offenders will be given the chance to engage in restorative justice.

The analysis at Annex B suggests that offenders aged 18-39, offenders from the Black ethnic group and men are over-represented in those sentenced in comparison with the general population, and thus these groups are more likely to be affected by the reforms relative to the general population.

The 'Breaking the Cycle' consultation highlighted the particular issues that need to be taken into account in using restorative justice appropriately, especially with young people and those with learning disabilities. MoJ will continue consider these issues as it develops these reforms.

Mitigation and justification

Through these reforms, we aim to increase the use of, and access to restorative justice in more cases where it is appropriate. Increasing use is beneficial to both victim engagement and satisfaction in the criminal justice system as well as having a positive impact upon offending behaviour. It offers victims the opportunity to have their say and seek answers to questions they may have of the offender. It also helps encourage offenders to face up to the consequences of their actions and seek to make amends as a result.

We will continue to highlight the Government's position that restorative justice must be used appropriately and in the right circumstances. This involves ensuring that the process is a voluntary one and that both the offender and victim wish to participate. Within this, we recognise that needs assessment is an important part of the process of identifying what type of support a victim or offender will require so we will develop the best mechanism for assessing need. This includes taking into consideration needs such as learning disabilities or mental health issues, and ensuring sufficient safeguards and factors are put in place. We will consider responses to the recently published consultation, 'Punishment and Reform: effective community sentences' to assess how best to increase victim awareness and participation in restorative justice practices at the pre-sentencing stage. This will also be helpful in understanding what assessments should be made to make sure that the appropriate safeguards are in place for vulnerable victims. We will continue to endorse and make use of best practice standard guidance (provided by the Restorative Justice Council) to this end and provide additional guidance as necessary.

Analysis of potential impacts - Increasing and extending the Victim Surcharge

Policy Reforms

We will increase the extent to which offenders contribute to the cost of support services by:

- increasing the level of the Victim Surcharge payable when a person is sentenced to a fine, and extending the Surcharge to cases where a person is dealt with by way of a conditional discharge, a community sentence, or custodial sentence, including when suspended;

- using additional receipts from increased Penalty Notices for Disorder (PNDs) to contribute to the cost of services for victims of crime, which combined with the increase in the Victim Surcharge, will raise up to £20m; and

- using additional receipts of up to £30m per year from the fixed penalty notices (FPNs) increased under the Department of Transport's (DfT) Strategic Framework for Road Safety (the equality impacts of increasing FPNs will be covered by the DfT Equality Impact Analysis).

The Surcharge will be payable in cases where a court deals with an adult offender by way of:

a) a conditional discharge at a flat rate of £15;

b) a fine at 10% of the fine value, with a minimum amount of £20 and a maximum cap for the Surcharge ordered on fines at £120;

c) an adult community sentence at a flat rate of £60;

d) a sentence of imprisonment, including where suspended, at £80 for a sentence of 6 months and below; at £100 for a sentence of over 6 months and up to 2 years; and at £120 for a sentence over 2 years;

We will extend the Surcharge in **2 stages** to cases where an adult is subject to an immediate custodial sentence:

Stage 1: During stage 1, the Surcharge will only be payable when an adult offender is subject to an immediate custodial sentence imposed by the Crown Court. However, the Surcharge will be payable in all cases that an adult is subject to a suspended sentence of imprisonment,

Stage 2: We will legislate to remove the power of a magistrates' court dealing with a person by way of an immediate custodial sentence to order that the

Surcharge be discharged as additional days in custody. Once this has been done, the Surcharge will be payable in respect of an immediate sentence of imprisonment in both the Crown Court and magistrates' court.

The surcharge will be payable when a court deals with a juvenile offender by way of:

a) a conditional discharge at a rate of £10;

b) a fine or community sentence (including Referral Orders) at a rate of £15; and

c) a custodial sentence of any length at a rate of £20.

We will also increase the value of PNDs by £10 on both lower and higher tier notices: the additional revenue will be spent on victim services.

The surcharge on a custodial sentence will in the first instance only be payable where a person under the age of 18 is sentenced by the Crown Court, pending legislation to remove the power of a magistrates' court to order the surcharge to be discharged as extra days.

Analysis

This package of reforms taken as a whole could raise up to an additional £50m each year. The revenue realised will be spent on services for victims. The actual amount of additional revenue will depend on the number of offenders affected and the payment rates. Victims may value offenders taking greater responsibility for their crimes and doing more to repair the damage caused.

There is differential treatment in relation to how the Surcharge will be applied to offenders of different ages. Under these reforms, offenders aged 18 years and over will be liable to pay a higher Surcharge than those under 18 years. For the reasons provided in the mitigation and justification section below we do not consider that this amounts to direct discrimination under the Equality Act 2010.

Although the reforms will apply to those who share a protected characteristic and those who do not, we have in this analysis identified how those who share a particular protected characteristic may be more likely to be subject to the Surcharge. Where offenders with particular protected characteristics are over-represented in the criminal justice system, people within groups having those characteristics are more likely to be subject to the Surcharge than the general population. These groups are set out in the analysis below, and we have identified in particular potential differential effects in respect of age, disability, race and sex, such as those who share a certain characteristic may be on average likely to pay a higher Surcharge.

Many respondents to the consultation raised the general point that offenders often have limited means and that this could contribute to the financial

hardship faced by an offender and their family/dependants. With regards to a Surcharge payable in a case in which an offender is sentenced to a fine this was of particular concern as the offender would have to pay both the financial imposition as well as the Surcharge. However, section 164(4A) of the Criminal Justice Act 2003 allows the sentencer to reduce the fine where the offender has insufficient means to pay both the Surcharge and the fine.

Many respondents to the consultation raised concerns with regards to an offender's ability to pay the Surcharge, particularly, when subject to a custodial sentence. Reference was repeatedly made to the low incomes of this particular group of offenders, and their financial commitments including dependants and debts. Several respondents highlighted the undesirability of placing further financial burdens on prisoners and their dependents, already a group subject to particular financial hardship at a time when there is an absent family member and/or contributor to the family finances.

One respondent raised concerns that offenders already face serious difficulties in getting support for their mental health conditions when leaving prison and argued that the prospect of many being burdened with further financial commitments is worrying. This was also highlighted with regards to offenders subject to community sentences.

The vast majority of respondents suggested that the Surcharge ought to be payable whilst in prison, payment to be dependant on earnings whilst in prison. One respondent raised concerns about the ability of prisoners to work due to a high percentage having two or more mental health disorders, many having learning disabilities and the increasing representation of people over 60 in the prison population.

Our analysis has indicated that in terms of those on low incomes having the potential to be adversely affected by the Surcharge reforms, those aged 30 to 59, disabled people, people from the White and Mixed ethnic groups and females may be differentially affected as they have been identified as having the potential to have lower incomes from which to pay the Surcharge.

A summary of the information presented at Annex B and relevant consultation responses for each protected characteristic is given below.

Age

There is differential treatment in relation to how the Surcharge will be applied to offenders of different ages. Under the reforms, offenders aged 18 years and over will be liable to pay a higher Surcharge than those under 18 years. For the reasons provided in the mitigation and justification section below we not do consider that this amounts to direct discrimination under the Equality Act 2010

Our analysis in Annex B and consultation responses received suggests that there is the potential for differential impact in relation to age, with older offenders likely to pay a higher Surcharge, and with the potential for those

aged 30-60 to have lower income from which to pay the Surcharge. Younger adults are also likely to be over-represented amongst those paying the Surcharge when compared to the general population, so they are more likely to be affected by the reforms to increase and extend the Surcharge.

Juveniles are more likely than other age groups to be in full-time education. There may therefore be the potential for differential impact in relation to juveniles, whose parents are not ordered to pay the Surcharge on their behalf, as they potentially have lower income from which to pay the Surcharge. Evidence suggests that a substantial proportion of juvenile offenders come from lone parent backgrounds. If their parent or guardian is liable to pay the Surcharge there is the potential for a differential impact in relation to women as they make up the majority of lone parents. For example, the 2010 report '*Punishing Disadvantage: a profile of children in custody*' found that 76 per cent (of a sample of 200 children in custody) were known to have had absent fathers, 33 per cent having had an absent mother.

In respect of the phrased implementation of the Surcharge payable when a person is dealt with by way of an immediate custodial sentence imposed by the Crown Court only, 2 per cent of juvenile offenders sentenced to immediate custody for indictable offences in the Crown Court in 2011 are aged under 18 compared to 8 per cent of offenders sentenced to immediate custody for indictable offences in magistrates' courts. 34 per cent of offenders sentenced to immediate custody for indictable offences in the Crown Court were aged 18-24 compared to 20 per cent in magistrates' courts. This suggests that the staged implementation of the Surcharge for those sentenced to immediate custody has the potential to have a greater impact initially on offenders aged 18-24.

Disability

One respondent at the equality consultation events raised concerns with regards to individuals with disabilities not always understanding the full impacts of a sentence. There may be communication issues, due to understanding, language or the fact that they are physically unable to do so.

The analysis in Annex B suggests that there is the potential for differential impact in relation to disability, with the potential for disabled people to have lower disposable income from which to pay the Surcharge, and that disabled offenders may be over-represented compared to the general population.

Marriage and Civil Partnership

The analysis in Annex B indicates that married people are under-represented amongst offenders compared to the general population.

Race

The analysis in Annex B suggests that there is the potential for differential impact in relation to race, with offenders from the "Other" ethnic group likely to

pay a higher Surcharge, and the potential for the White and Mixed ethnic groups to have lower income from which to pay the Surcharge. Black offenders are also likely to be over-represented amongst those paying the Surcharge when compared to the general population as they are more likely to be offenders.

In respect of the phrased implementation of the Surcharge payable when a person is dealt with by way of an immediate custodial sentence imposed by the Crown Court only, 22 per cent of offenders sentenced to immediate custody for indictable offences in the Crown Court in 2011 are from a BME group compared to 14 per cent of offenders sentenced to immediate custody for indictable offences in magistrates' courts. (9 per cent of information of ethnicity information is missing for offenders in both sets of courts). This suggests that the staged implementation of the Surcharge for those sentenced to immediate custody has the potential to have a greater impact initially on offenders from a BME group.

Religion and Belief

The analysis in Annex B shows that offenders with no religion given custodial sentences are over represented compared to the general population in England. Therefore imposing a Surcharge on those given custodial sentences may have a greater impact on those with no religion when looking at overall figures. There is also the potential for Mormons, Anglicans and offenders with 'No Religion' to experience a greater impact as a result of the Surcharge as they may be more likely to have a lower income.

Sex

One respondent raised particular concerns with regards to women who have no recourse to public funds being disadvantaged by the Surcharge reforms. This point was particularly raised in relation to women with uncertain immigration status or who had been trafficked and who were therefore unable to work or have access to benefits. This is also a consideration in respect of race because most victims of trafficking are foreign nationals.

Our analysis in Annex B suggests that there is the potential for differential impact in relation to sex, with male offenders likely to pay a higher Surcharge, but with the potential for females to have lower income from which to pay the Surcharge. Annex B also indicates that female offenders are more likely than male offenders to head lone parent households. Men are likely to be over-represented amongst those paying the Surcharge when compared to the general population as they are more likely to be offenders.

In respect of the phrased implementation of the Surcharge payable when a person is dealt with by way of an immediate custodial sentence imposed by the Crown Court only, 93 per cent of offenders sentenced to immediate custody in the Crown Court in 2011 are male compared to 88 per cent of offenders sentenced to immediate custody in magistrates' courts. This suggests that the staged implementation of the Surcharge for those sentenced

to immediate custody has the potential to have a greater impact initially on male offenders.

Mitigation and justification

Our aim is that as many offenders as possible should contribute to the costs incurred by the state in supporting victims to cope and recover following crime. We believe that the Surcharge reforms are a proportionate way of achieving this since any offender subject to the specified disposals will be liable to pay the Surcharge. Further, the amount of the Surcharge has been determined by reference to the seriousness of the sentence: an offender will be ordered to pay a higher Surcharge where a sentencer has imposed a more onerous sentence.

The amount of the Surcharge payable under the reforms will be set at a lower level for offenders aged under 18. This recognises the long standing differences between sentencing principles for juvenile and adult offenders. As under our reforms the amount of the Surcharge is related to the seriousness of the sentence, we are conscious that the Surcharge amounts should also reflect this principle. The sentencing guideline for under 18s, *Over-arching Principles: Sentencing for Youths issued on 20 November 2009,* sets out the principle that youths will receive a lesser sentence than adults in recognition of their age. This is also in line with European and international obligations (United Nations Convention on the Rights of the Child) that require states to have a separate justice system for under 18s that recognises a child's youth and propensity to make mistakes as a normal part of their growing up.

This lower level application takes into account the likelihood that offenders under 18 will be less able to pay the Surcharge than adults. Unlike adults, they are less likely to have access to public funds and are more likely to be in education than employment; hence it is proportionate to expect them to pay a lower Surcharge than adult offenders.

Additionally, where an offender is under 16, the payment of the Surcharge will generally become the responsibility of the offender's parent or guardian, and in this case we believe it is justified a lower Surcharge should be payable, as they are not the actual offender themselves.

The different treatment of under 18 year olds is therefore justified to ensure that there is a proportionate contribution towards the cost of victim services, and as such does not amount to direct discrimination within the meaning of the 2010 Act.

Where an offender's income makes payment of the Surcharge more difficult, HMCTS has a range of enforcement tools which may mitigate this impact. HMCTS would collect the Surcharge in the same manner as existing financial orders imposed by a court. They have in place a number of payment methods that make it easy for offenders to pay financial impositions, these include payment cards and payment by credit and debit card both online and via a telephone payment line. These payment methods are actively promoted by

enforcement teams and offenders are directed to the methods that are most appropriate and convenient for them. There are also payment methods which allow those offenders who are unable to pay in full at once to pay financial impositions including the Surcharge over a period of time. These include deduction from benefits orders and attachment of earnings orders which the court may order in appropriate cases to deduct payments for outstanding financial penalties from the offender's benefits or salary. As acknowledged in the Government response we are aware of the practical difficulties in collecting the Surcharge from those individuals sentenced to immediate custody and the impact upon them and their dependants. We intend a phased implementation of this reform due to the need for legislation and to ensure the presence of an effective collection mechanism. A separate equality impact assessment will need to be completed if work on a collection mechanism identifies a new enforcement process in the future.

As a result of a phased implementation of the surcharge payable when a person is dealt with by way of an immediate custodial sentence, the Surcharge will only be payable by an offender sentenced in the Crown Court in the first instance. We have identified the potential for differential impacts by age, race and sex. We believe it is right that offenders given the most serious sentences should start to contribute to the cost of victim services, in the same way as those given other sentences i.e. conditional discharges, community sentences and fines. We will legislate to ensure that those sentenced to immediate custodial sentences in the magistrates' court also contribute as soon as legislation is passed to prevent the Surcharge being discharged as additional days in custody.

A further equality consideration raised during the consultation was with regards to individuals with certain disabilities not understanding what the Surcharge is. We will therefore be working with sentencers to increase awareness of the Surcharge and the benefits arising from the extra revenue. We intend that this will better enable the effective communication of the implications of the Surcharge to those offenders who, for example, have learning disabilities or whose first language is not English. In so far as the Surcharge reforms apply to disabled people, we believe that the policy is proportionate, given the aim that all offenders should contribute to the cost of victims' services. We do not consider it necessary to make any adjustments to the policy in respect of disabled persons, for example, by not extending the Surcharge to them, given the overall aim of the policy which is that as many offenders as possible should contribute through the Surcharge.

We have identified a differential impact by age of those individuals given PNDs. The 18-24 age group is overrepresented compared to the general population, and therefore the increase may have a greater impact upon this group. However we do not consider it necessary to make adjustments to the policy in respect of this characteristic as we believe it is legitimate that all individuals who receive PNDs contribute to the cost of victim services. We are proposing to increase the value of both higher and lower tier PNDs by a lower amount than the value of the lowest Surcharge that can be ordered in court, to reflect the fact that PNDs are not the consequence of a conviction. In any

event, it is always open for an individual issued with a PND to opt to be tried in court rather than pay the penalty.

Monitoring

Commissioning framework for services for victims of crime and Commissioning victims' services

Commissioning at a local level will be conducted by Police and Crime Commissioners. It will be for them to monitor how service providers are achieving the outcomes of cope and recover contained in the commissioning framework and how equality issues are being addressed. PCCs will be subject to equality duties in the Equality Act 2010. PCCs themselves will be monitored by their police and crime panel, to ensure that they are keeping to their commitments in the police and crime plan which should set out their plans for victims in their area.

Supporting victims and witnesses through the Criminal Justice System

As we begin to draft the new Victims' Code we will consider how best to monitor and enforce it. There will be a further consultation on the Code, next year before we lay it before Parliament.

Restorative Justice

We are conducting an evaluation of Neighbourhood Justice Panels which are based on restorative justice principles. We are monitoring the implementation of the panel approach for positive, negative, and mixed equality impacts. We intend to collect equality and diversity information on: panel membership; which offenders and victims are offered the opportunity of the panel route; venue accessibility; understanding of the panels; processes; and the types of resolutions brokered. The evaluation will capture data on the protected characteristics and will explore users' perceptions of the process, including access.

We will consider equality issues and how to monitor them as proposals are developed following the recently published consultation, 'Punishment and Reform: effective community sentences'.

Increasing and extending the Victim Surcharge

The intention is to review the Surcharge policy three years after implementation to identify and quantify the policy impacts. We will also consider how we can improve the collection of equalities data in the future.

Annex A - Profile of victims and witnesses

Tables A1 to A12 present the data considered in relation to the impact on victims and witnesses by protected characteristics. The analysis below focuses on where differences were found in the data between victims and witnesses with different protected characteristics.

Age

Table A1 shows that the risk of being a victim of crime is highest among those aged 16 to 24 and that the risk decreases through the higher age groups. 32 per cent of 16-24 year olds had been a victim of all CSEW crime in 2010/11, compared with 8 per cent of those aged 75 and over. This pattern is also found when looking at all violent crime, sexual assault, and domestic violence (see Tables A2 and A4). Younger people were also more likely to be victims of hate crime (Table A5).

Table A6 shows the risk of victimisation amongst children aged 10 to 15; 12 per cent had been a victim of any crime, with similar percentages of children experiencing victimisation across the age groups. These statistics are not directly comparable with the adult statistics.

Table A9 shows that victims and witnesses aged 65 and over were less likely to have contact with the Witness Service than those in other age groups (with the exception of those aged 18-24). Table A10 shows that victims and witnesses aged 65 and over were less likely to have contact with Victim Support than those aged 18-24. This may be related to crime type, or other factors, for example those aged 65 and over were less likely to be victims or witnesses of violence.

Table A11 shows that young victims and witnesses were less likely to say that they had special needs as a result of the crime; 6 per cent of 18-24 year olds said they had special needs, compared with 10 per cent of 35-44 year olds. Table A12 shows whether those with special needs received the help they required; there was no clear pattern by age.

Disability

Table A1 shows that the risk of being a victim of crime is slightly lower for people with a longstanding illness or disability than it is for those with no longstanding illness or disability. 19 per cent of adults with a limiting illness or disability had been a victim of all CSEW crime in 2010/11 compared with 22 per cent of those with no longstanding illness or disability.

The risk of being a victim of violence, or sexual assault, was similar for people with a longstanding illness or disability compared with those with no longstanding illness or disability, as shown in Tables A2 and A4. However, those with limiting long term illnesses or disabilities have an older age profile

than the population at large. When age is controlled for, those with a limiting long term illness or disability are more likely to be a victim of violent crime.

Table A4 shows that a higher proportion of disabled people suffer domestic violence than non-disabled people; 14 per cent of women who had a limiting long-standing illness or disability were victims of domestic abuse in 2009/10 compared with 7 per cent of those who did not have a long-standing illness or disability. In addition, people with a limiting long term illnesses or disability were more likely to be victims of hate crime (Table A5).

Disabled victims and witnesses whose case resulted in a charge were not significantly more likely to have contact with the Witness Service than non-disabled victims and witnesses (Table A9); however, those with a disability that limits their activities were more likely to have contact with Victim Support than non-disabled victims and witnesses (Table A10).

Table A11 shows that victims and witnesses with a disability that limits their activities were more likely to say that they had special needs as a result of the crime (17 per cent, compared with 8 per cent of those that did not have a disability), while they were less likely to say they received the help they required than those victims and witnesses who did not have a disability (Table A12).

Marriage and civil partnership

Table A1 shows that single, cohabitating and separated people are at greater risk of being a victim of crime; for example, 28 per cent of single adults were victims of all CSEW crime in 2010/11, compared with 19 per cent of married people. Table A2 shows a similar pattern for violent crime, while single people were also more likely to be victims of personal hate crime (Table A5).

Separated women were significantly more likely to be a victim of domestic abuse; in 2009/10, 22 per cent of separated women had been a victim of domestic abuse in the last year, compared with 11 per cent of single women and 4 per cent of married women (Table A4). However, the separated women who had been victims may not have been separated before the abuse occurred and may have separated from the perpetrator as a result of the abuse.

Race

Table A1 shows that Black and Minority Ethnic (BME) people are slightly more likely to be a victim of both personal crime and all CSEW crime than White people. 21 per cent of White people and 25 per cent of BME people had been a victim of all CSEW crime in the 2010/11 survey, whilst 6 per cent of White people and 8 per cent of BME people had been a victim of a personal crime. These differences were largely due to an increased risk of victimisation among those from a Mixed ethnic background. BME people were also more likely to be victims of hate crime (Table A5).

White victims and witnesses were more likely to have contact with the Witness Service than those from Black or Asian ethnic groups (Table A9); this may in part be because White people were more likely to be witnesses than those from other ethnic groups. Black victims and witnesses were more likely to have contact with Victim Support than those from White or Asian ethnic backgrounds (Table A10).

Table A11 shows that White victims and witnesses were less likely to say that they had special needs as a result of the crime than Asian, Black or Chinese victims and witnesses; however, as Table A12 shows, they were more likely than BME people to say they received the help they required.

Religion or Belief

Due to the relatively small number of respondents to the CSEW who identify as being from certain religious groups data from the 2009/10 and 2010/11 CSEW have been combined for the purposes of analysis. This data is presented in Tables A5 and A7. There is little difference in the risk of being a victim across religious groups, although Christians were less likely to be a victim of all CSEW crime than those from other groups (with the exception of Hindus), and they were less likely to be victims of personal crime than people who said they had no religion or people from the 'other' religion group. People who said they had no religion were more likely to be a victim of violent crime than Christians, Buddhists, Hindus and Muslims.

Sex

Table A1 shows that males have a slightly higher risk of being a victim of both personal crime and all CSEW crime than females; 23 per cent of male adults and 21 per cent of female adults had been a victim of all CSEW crime in 2010/11.

Table A2 shows that male adults were more likely than females (4 per cent compared with 2 per cent) to have been the victim of violent crime. Table 3 shows that female adults were more likely to be a victim of sexual assault or domestic abuse than males (3 per cent of females compared to less than 1 per cent of males were victims of a sexual assault, 7 per cent of females and 5 per cent of males had been a victim of domestic abuse in 2010/11).

Female victims and witnesses were more likely to have contact with the Witness Service or Victim Support (Tables A9 and A10). In addition, Table A11 shows that female victims and witnesses were more likely to say that they had special needs as a result of the crime (11 per cent, compared with 7 per cent of males). Table A12 shows that female victims and witnesses were more likely to say they received the help they required.

Sexual Orientation

Due to the relatively small number of respondents to the CSEW who identify as gay, lesbian or bisexual, data from the 2009/10 and 2010/11 CSEW have been combined for the purposes of analysis, which is presented in Table A8.

This shows that people who were gay or lesbian were more likely to be victims of all CSEW crime, personal crime, or violent crime than heterosexual people. A similar pattern was found for bisexual people, when compared with heterosexual people.

The higher level of victimisation amongst gay, lesbian and bisexual people may be due, at least in part, to the younger age profile of individuals identifying themselves as in this group; 30 per cent of those reporting to be lesbian, gay or bisexual were aged 16 to 24 compared to 21 per cent who identified as heterosexual or straight.

Table A1 Proportion of adults who were victims of all CSEW crime and personal crime by personal characteristics

Percentages		**England and Wales, 2010/11 CSEW**	
	Personal crime	All CSEW crime	*Unweighted base*[1]
Gender			
Male	6	23	*21,076*
Female	5	21	*25,678*
Ethnicity			
White	6	21	*42,991*
Non-White	8	25	*3,687*
Mixed	11	30	*350*
Asian or Asian British	7	26	*1,676*
Black or Black British	7	23	*1,006*
Chinese or other	9	23	*655*
Disability status			
Long-standing illness or disability	5	20	*13,793*
Limits activities	5	19	*9,879*
Does not limit activities	6	22	*3,909*
No long-standing illness or disability	6	22	*32,883*
Age			
16-24	14	32	*3,885*
25-34	8	27	*6,464*
35-44	5	25	*7,976*
45-54	4	22	*7,805*
55-64	3	17	*8,139*
65-74	2	11	*6,577*
75+	1	8	*5,908*
Marital status			
Married	3	19	*21,755*
Cohabiting	6	27	*4,176*
Single	12	28	*9,828*
Separated	8	24	*1,560*
Divorced	6	21	*4,244*
Widowed	2	9	*5,173*

1. Unweighted base relates to 'All CSEW crime'.
Source: Home Office Statistical Bulletin 10/11: Crime in England and Wales 2010/11: Findings from the British Crime Survey and Police Recorded Crime

Table A2 Proportion of adults who were victims of violent crime by personal characteristics

Percentages	England and Wales, 2010/11 CSEW	
	All violence[1]	*Unweighted base*
ALL ADULTS	3	46,754
Age		
16-24	9	3,885
25-34	4	6,464
35-44	3	7,976
45-54	2	7,805
55-64	1	8,139
65-74	0	6,577
75+	0	5,908
Disability status		
Long-standing illness or disability	3	12,715
Limits activities	3	9,052
Does not limit activities	3	3,657
No long-standing illness or disability	3	31,761
Gender		
Male	4	21,076
Female	2	25,678
Ethnicity		
White	3	42,991
Non-White	4	3,687
Mixed	7	350
Asian or Asian British	4	1,676
Black or Black British	3	1,006
Chinese or other	3	655
Marital status		
Married	2	21,755
Cohabiting	4	4,176
Single	7	9,828
Separated	4	1,560
Divorced	3	4,244
Widowed	1	5,173

1. 'Violent crime' includes wounding, assault with minor injury, assault without injury and robbery.
Source: Home Office Statistical Bulletin 10/11: Crime in England and Wales 2010/11: Findings from the British Crime Survey and Police Recorded Crime

Table A3 Proportion of adults who were victims of intimate violence in the last year by gender

Percentages			England and Wales, 2010/11 CSEW
	Sexual assault[1]	Domestic abuse[2]	*Unweighted base*[3]
Gender			
Male	1	5	*4,967*
Female	3	7	*5,927*

1. Including attempts. Only covers victims aged 16-59.
2. Any domestic abuse (partner or family non-physical abuse, threats, force, sexual assault or stalking). Only covers victims aged 16-59.
3. Unweighted base relates to 'Domestic abuse'.

Source: Home Office Statistical Bulletin 10/11: Crime in England and Wales 2010/11: Findings from the British Crime Survey and Police Recorded Crime

Table A4 Proportion of adults who were victims of intimate violence in the last year by personal characteristics

Percentages					England and Wales, 2009/10 CSEW	
	Sexual assault[1]		Domestic abuse[2]		*Unweighted base*[3]	
	Men	Women	Men	Women	Men	Women
Ethnicity						
White	0	2	4	7	*9,074*	*10,835*
Non-White	1	2	3	7	*815*	*887*
Disability status						
Long-standing illness or disability	1	3	7	12	*1,519*	*2,030*
Limits activities	1	3	7	14	*843*	*1,217*
Does not limit activities	1	3	7	10	*675*	*810*
No long-standing illness or disability	0	2	4	7	*8,369*	*9,691*
Age						
16-19	1	8	6	13	*661*	*670*
20-24	1	4	5	11	*756*	*898*
25-34	0	2	5	7	*2,048*	*2,634*
35-44	0	1	3	7	*2,746*	*3,477*
45-54	0	1	3	5	*2,579*	*2,809*
55-59	0	1	3	5	*1,102*	*1,240*
Marital status						
Married	0	1	2	4	*4,610*	*5,226*
Cohabiting	0	1	5	7	*1,392*	*1,526*
Single	1	5	6	11	*2,956*	*3,201*
Separated	0	4	8	22	*274*	*476*
Divorced	1	2	8	14	*599*	*1,132*
Widowed	0	1	3	8	*60*	*165*

1. Including attempts. Only covers victims aged 16-59.
2. Any domestic abuse (partner or family non-physical abuse, threats, force, sexual assault or stalking). Only covers victims aged 16-59.
3. Unweighted base relates to 'Domestic abuse'.

Source: Home Office Statistical Bulletin 01/11: Homicides, Firearms offences and Intimate Violence 2009/10: Supplementary Volume 2 to Crime in England and Wales 2009/10

Table A5 Proportion of adults who were victims of hate crime in the last year by personal characteristics
Percentages England and Wales, adults aged 16 and over, 2009/10 and 2010/11 CS

	Personal hate crime[1]	All hate crime[1,2]	All CSEW personal crime	All CSEW crime	*Unweighted bas*
ALL ADULTS	0	0	6	22	*91,*
16-24	1	1	14	32	*7,*
25-34	0	1	8	27	*12,*
35-44	0	1	5	25	*15,*
45-54	0	0	4	22	*15,*
55-64	0	0	3	17	*15,*
65-74	0	0	2	11	*12,*
75+	0	0	2	8	*11,*
Gender					
Male	0	1	7	23	*41,*
Female	0	0	5	20	*50,*
Ethnic group					
White	0	0	6	21	*84,*
Non-White	1	2	7	23	*6,*
Mixed	1	2	10	30	
Asian or Asian British	1	2	6	24	*3,*
Black or Black British	0	1	7	21	*1,*
Chinese or other	1	1	8	22	*1,*
Religion					
Christian	0	0	4	20	*69,*
Buddhist	1	1	5	26	
Hindu	1	2	4	21	
Muslim	1	2	6	23	*2,*
Other	1	1	7	27	*1,*
No religion	0	0	7	27	*16,*
Marital status					
Married	0	0	3	19	*42,*
Cohabiting	0	0	6	27	*8,*
Single	1	1	12	28	*18,*
Separated	0	1	8	24	*2,*
Divorced	0	1	6	21	*8,*
Widowed	0	0	3	10	*10,*
Long-standing illness or disability					
Long-standing illness or disability	0	1	5	20	*26,*
Limits activities	0	1	5	19	*18,*
Does not limit activities	0	0	6	22	*7,*
No long-standing illness or disability	0	0	6	22	*64,*

1. Excludes gender identity as questions on this strand were not included until 2011/12.
2. This percentage is calculated treating a household crime as a personal crime. It is the estimated percentage of adults who have been a victim of at least one personal crime or have been resident in a household that was a victim of at least one household crime.

Source: Hate crime, cyber security and the experience of crime among children: Findings from the 2010/11 British Crime Survey Supplementary Volume 3 to Crime in England and Wales 2010/11

Table A6 Proportion of children aged 10 to 15 who experienced victimisation in the last year, by age breakdown

Percentages	England and Wales, children aged 10–15, 2010/11 CSEW		
	Age 10 to 12	**Age 13 to 15**	**Ages 10 to 15**
All violence	7	6	7
Violence with injury	6	5	5
Violence without injury	2	2	2
All thefts	5	6	5
Theft from the person	1	1	1
Other theft of personal property	3	3	3
All crime experienced by children aged 10–15	12	12	12
Crime against the person	11	12	11
Crime against personal property	1	0	0
Unweighted base	*1,823*	*2,026*	*3,849*

1. 'All violence' includes the offence types of wounding, robbery, assault with minor injury and assault with injury. 'All thefts' includes theft from the person and other theft of personal property but also theft from inside and outside a dwelling and theft of bicycles where the property stolen or damaged belonged solely to the child respondent. 'Crime against the person' comprises all violence and thefts. See Section 5 of the User Guide for more information on crime types

Source: Hate crime, cyber security and the experience of crime among children: Findings from the 2010/11 British Crime Survey Supplementary Volume 3 to Crime in England and Wales 2010/11

Table A7 Proportion of adults who were victims of violent crime by religion

Percentages	England and Wales, 2009/10 and 2010/11 CSEW	
	All violence	*Unweighted base*
Religion		
Christian	3	*69,920*
Buddhist	2	*409*
Hindu	2	*898*
Muslim	3	*2,169*
Sikh	3	*340*
Other	5	*802*
No religion	5	*16,602*

1. Based on a combined 2009/10 and 2010/11 dataset to allow for robust analysis.

Source: Further analysis of CSEW

Table A8 Proportion of adults who were victims of crime by sexual orientation

Percentages **England and Wales, 2009/10 and 2010/11 CSEW**

	All CSEW Crime	Personal crime	All violence	*Unweighted base*
Sexual identity[2]				
Heterosexual or straight	26	7	4	*47,677*
Gay or lesbian	35	15	9	*733*
Bisexual	30	12	5	*389*
Other	26	8	4	*1,694*
Total for those aged 16-59[3]	**26**	**7**	**4**	***50,493***

1. Based on a combined 2009/10 and 2010/11 dataset to allow for robust analysis.
2. The question on the sexual identity of the respondent is asked in the self-completion module of the questionnaire. This module is only asked of those respondents aged 16-59. The 'Other' category includes those who responded 'Other', those who responded 'Don't know' and those that did not wish to answer the question.
3. These are higher than the proportions for the overall CSEW as they exclude respondents aged 60 and over.

Source: Further analysis of CSEW.

Table A9 Proportion of victims and witnesses who had contact with the Witness Service

Percentages **2009/10 WAVES**

	Had contact with Witness Service	Did not have contact with Witness Service	Don't Know	*Unweighted base*
All	63	31	6	*7,701*
Gender				
Male	60	34	6	*4,635*
Female	68	27	6	*3,066*
Ethnicity				
White	65	29	6	*6,646*
Asian	50	44	6	*462*
Black	52	42	6	*273*
Mixed	54	32	14	*144*
Chinese/other	60	34	6	*121*
Disability status				
Has disability which limits activities	66	29	5	*864*
Has disability which does not limit activities	63	30	7	*373*
Does not have a disability	63	31	6	*6,442*
Age				
18-24	57	35	8	*1,624*
25-34	62	32	6	*1,687*
35-44	66	29	5	*1,864*
45-54	67	28	5	*1,590*
55-64	67	27	6	*678*
65+	48	42	9	*247*

1. WAVES interviews victims and prosecution witnesses aged 18 and over whose case resulted in a charge, after the case has closed. WAVES covers the following crime types; violence against the person; robbery; burglary; criminal damage; theft and handling stolen goods. Victims and witnesses in sensitive cases, such as sexual offences or domestic violence, crimes involving a fatality, and any crime where the defendant was a family member or a member of the witnesses' or victims' household, are not included on ethical grounds. WAVES also excludes police officers or other CJS officials assaulted in the course of duty, and all police or expert witnesses.
2. Percentages are subject to a margin of error, and apparent differences may not be statistically significant differences.
3. Base: respondents who attended court to give evidence (regardless of whether they ended up giving evidence).

Source: Ministry of Justice Research Series 1/12: Satisfaction and willingness to engage with the criminal justice system: Findings from the Witness and Victim Experience Survey, 2009–10

Table A10 Proportion of victims and witnesses who had contact with Victim Support

Percentages **2009/10 WAVES**

	Had contact with Victim Support	Did not have contact with Victim Support	Don't Know	*Unweighted base*
All	27	70	3	*19,032*
Gender				
Male	26	71	3	*11,593*
Female	30	68	2	*7,435*
Ethnicity				
White	28	70	3	*16,511*
Asian	25	72	3	*1,076*
Black	33	65	2	*570*
Mixed	30	66	4	*340*
Chinese/other	25	72	3	*368*
Disability status				
Has disability which limits activities	35	62	2	*2,222*
Has disability which does not limit activities	29	70	2	*912*
Does not have a disability	26	71	3	*15,825*
Age				
18-24	31	65	4	*3,220*
25-34	27	71	3	*3,856*
35-44	27	70	3	*4,567*
45-54	27	70	3	*3,963*
55-64	27	71	3	*2,300*
65+	24	73	2	*1,079*

1. WAVES interviews victims and prosecution witnesses aged 18 and over whose case resulted in a charge, after the case has closed. WAVES covers the following crime types; violence against the person; robbery; burglary; criminal damage; theft and handling stolen goods. Victims and witnesses in sensitive cases, such as sexual offences or domestic violence, crimes involving a fatality, and any crime where the defendant was a family member or a member of the witnesses' or victims' household, are not included on ethical grounds. WAVES also excludes police officers or other CJS officials assaulted in the course of duty, and all police or expert witnesses.
2. Excludes respondents whose cases did not proceed to trial/hearing and respondents who stated they did not know whether their case proceeded to trial/hearing or not.
3. Percentages are subject to a margin of error, and apparent differences may not be statistically significant differences.
4. Base: all victims.

Source: Ministry of Justice Research Series 1/12: Satisfaction and willingness to engage with the criminal justice system: Findings from the Witness and Victim Experience Survey, 2009–10

Table A11 Proportion of victims and witnesses who had special needs as a result of the crime

Percentages			**2009/10 WAVES**
	Had special needs	Did not have special needs	*Unweighted base*
All	9	91	*37,779*
Gender			
Male	7	93	*21,930*
Female	11	89	*15,843*
Ethnicity			
White	8	92	*33,347*
Asian	11	89	*1,888*
Black	12	88	*1015*
Mixed	11	89	*613*
Chinese/other	12	88	*634*
Disability status			
Has disability which limits activities	17	83	*3,494*
Has disability which does not limit activities	11	89	*1,722*
Does not have a disability	8	92	*32,434*
Age			
18-24	6	94	*6,796*
25-34	8	92	*8,183*
35-44	10	90	*9,077*
45-54	10	90	*7,693*
55-64	10	90	*4,209*
65+	9	91	*1,740*

1. WAVES interviews victims and prosecution witnesses aged 18 and over whose case resulted in a charge, after the case has closed. WAVES covers the following crime types; violence against the person; robbery; burglary; criminal damage; theft and handling stolen goods. Victims and witnesses in sensitive cases, such as sexual offences or domestic violence, crimes involving a fatality, and any crime where the defendant was a family member or a member of the witnesses' or victims' household, are not included on ethical grounds. WAVES also excludes police officers or other CJS officials assaulted in the course of duty, and all police or expert witnesses.

2. Excludes respondents whose cases did not proceed to trial/hearing, and respondents who stated they did not know whether their case proceeded to trial/hearing or not.

3. Percentages are subject to a margin of error, and apparent differences may not be statistically significant differences.

4. Base: all victims and witnesses.

Source: Ministry of Justice Research Series 1/12: Satisfaction and willingness to engage with the criminal justice system: Findings from the Witness and Victim Experience Survey, 2009–10

Table A12 Proportion of victims and witnesses who had special needs who received the help they required

Percentages	Received required help	Did not receive required help	Don't Know	2009/10 WAVES *Unweighted base*
All	71	27	2	*3,696*
Gender				
Male	69	29	2	*1,776*
Female	74	25	1	*1,920*
Ethnicity				
White	74	24	2	*3,144*
Asian	61	38	1	*228*
Black	56	43	1	*141*
Mixed	54	46	0	*77*
Chinese/other	51	46	2	*75*
Disability status				
Has disability which limits activities	66	32	2	*645*
Has disability which does not limit activities	72	27	2	*221*
Does not have a disability	73	26	2	*2,818*
Age				
18-24	75	23	2	*448*
25-34	71	28	1	*753*
35-44	67	31	1	*991*
45-54	72	27	1	*849*
55-64	77	21	2	*469*
65+	73	24	3	*182*

1. WAVES interviews victims and prosecution witnesses aged 18 and over whose case resulted in a charge, after the case has closed. WAVES covers the following crime types; violence against the person; robbery; burglary; criminal damage; theft and handling stolen goods. Victims and witnesses in sensitive cases, such as sexual offences or domestic violence, crimes involving a fatality, and any crime where the defendant was a family member or a member of the witnesses' or victims' household, are not included on ethical grounds. WAVES also excludes police officers or other CJS officials assaulted in the course of duty, and all police or expert witnesses.
2. Excludes respondents whose cases did not proceed to trial/hearing, and respondents who stated they did not know whether their case proceeded to trial/hearing or not.
3. Percentages are subject to a margin of error, and apparent differences may not be statistically significant differences.
4. Base: respondents with special needs as a result of the crime.
Source: Ministry of Justice Research Series 1/12: Satisfaction and willingness to engage with the criminal justice system: Findings from the Witness and Victim Experience Survey, 2009–10

Annex B - Profile of offenders

In analysing the potential equality impacts of the reforms relating to the Victim Surcharge, we began by assessing the likely impact of the entire package of Surcharge reforms (as outlined in the accompanying Impact Assessment) on people subject to each protected characteristic and also consider the equality impacts of each of the individual aspects which make up the package. Where we have no data relating to a particular protected characteristic, we have not been able to analyse the potential impacts. We do not have information on gender reassignment, pregnancy and maternity, or sexual orientation.

Age

The analysis by age relates to those sentenced for indictable offences as detailed data by age is not available for summary offences.

Table B1 indicates that persons aged between 18 and 39 who have committed an indictable offence[11] are more likely to be subject to a sentence that would attract the Surcharge compared to the general population. Therefore, the Surcharge reforms may have a greater impact on people within these age groups when looking at overall figures.

Table B2 shows that there is little variation in the percentage of those sentenced subject to a sentence that would attract the Surcharge, with 95 per cent of 21-24 year old offenders subject to such a sentence and 93 per cent of those aged under 18.

Table B2 shows that 4 per cent of offenders under the age of 18 are sentenced to a fine for indictable offences, which is a much smaller proportion than for other age groups. This means that only 4 per cent of offenders under the age of 18 are currently subject to the Surcharge for indictable offences, given that it is currently ordered only where an offender is fined. Extending the Surcharge to other disposals beyond the fine will mean that a larger proportion of persons sentenced under the age of 18 will pay the Surcharge where they did not previously, compared to other age groups.

Table B8 shows that the estimated average Surcharge payable under these reforms will be higher for adults. The lowest estimated amount of £15 would be paid by persons aged under 18 and this reflects the application of a lower Surcharge to those offenders (as outlined in option 6b). The average amount payable is much higher for those aged 18 and over (for example, £59 for those aged 18-20) and rises to £65 for offenders aged 60 and over, due in part, to the fact that a larger proportion of this age-group are subject to custodial sentences which will attract a Surcharge between £80 to £120.

[11] Detailed information by age is not available for summary offences.

Table B11 presents the age of offenders in the DWP / HMRC / MoJ data share who were subject to a sentence in the year ending 30 November 2010 that would attract a surcharge. The data share found that 54 per cent of offenders were in receipt of any type of benefit in the month before sentence. We have compared the distribution of age amongst those receiving out-of-work benefits only (as a proxy for low income) with all offenders given a sentence that would be subject to the Surcharge as well as with the general population. This proxy measure is one way to reflect the likelihood of the offender population being on a low income, but we have been unable to take into account other factors which may also indicate this such as low earnings or limited hours at work. Annex E details in full the caveats and limitations of this data source.

Table B11 shows that the older age groups (those aged 30 to 59 years) are more likely to be in receipt of out-of-work benefits compared to younger age groups. This suggests that they may experience a greater impact as a result of the Surcharge.

A 2002 report by the Youth Justice Board surveyed 4,000 juvenile offenders, and found that 70 per cent were from lone-parent backgrounds. The 2010 report 'Punishing Disadvantage: a profile of children in custody' found that 76 per cent (of a sample of 200 children in custody) were known to have had absent fathers, 33 per cent having had an absent mother. These figures suggest that where the parent or guardian pays the Surcharge, there is the potential for a differential impact on women as they make up the majority of lone parents. Our analysis also indicates that women offenders are more likely to have lower incomes, and may have higher household outgoings.

Her Majesty's Inspectorate of Prisons estimated in 1997 that over half of those under 18 in custody had a history of being in care or social services involvement. In instances where the offender is in care, the corporate parent (i.e. the local authority) is responsible for paying the Surcharge as they are responsible for the young person.

The table below summarises the potential impacts by age of the Surcharge reforms by individual disposal.

Disposal	Analysis
Conditional Discharges	Table B1 indicates that persons aged between 18 and 39 subject to conditional discharges are over-represented compared to the general population. Imposing a Surcharge on those subject to conditional discharges may have a greater impact on this age group when looking at overall figures compared to the general population. Table B2 indicates that amongst offenders dealt with by the courts the use of conditional discharges increases slightly with age and therefore imposing a Surcharge on those given a conditional discharge may have a slightly greater impact upon older offenders when looking at those sentenced. Table B11 shows that offenders aged between 30 and 49 years are more likely to be in receipt of out-of-work benefits when compared to younger offenders and therefore this group may experience a greater impact as a result of the Surcharge on conditional discharges.
Fines	Table B1 indicates that persons aged between 18 and 39 subject to fines are over-represented compared to the general population, and thus increasing the Surcharge for fines may have a greater impact on those aged 18-39 than any other age group when looking at overall figures compared to the general population. Table B2 indicates that amongst those sentenced the use of fines is lowest for those aged under 18, but for those aged 18 and over there is little variation in the use of fines by age group. Therefore increasing the Surcharge which must be ordered on a fine may have a greater impact on those aged 18 and over (compared to those under 18) when looking at those sentenced. Table B11 shows that offenders aged between 30 and 59 years are more likely to be claiming out-of-work benefits than younger offenders[12] and therefore this group may experience a greater impact as a result of the increase in the Surcharge on fines. The proposal to set the level of the Surcharge on fines to a

[12] The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). The PNC largely covers 'recordable' offences. However, the PNC does not generally cover the less serious summary offences such as TV licence evasion and less serious motoring offences, which are more likely to receive a sentence of a fine. Coverage across all sentence types is generally very high with the exception of fines, where the PNC includes less than a fifth (19 per cent) of all fines given out by the courts. As a result, care must be taken when interpreting these findings, particularly for the analysis on offenders receiving a fine.

	percentage of the value of the fine amount would see higher fines receiving a higher Surcharge, in order to reflect the seriousness of the sentence. The Surcharge payable on a fine would range from £20 to £120.
Community Sentences	Table B1 indicates that persons aged under 40 subject to a community sentence are over-represented compared to the general population. Proposing that the Surcharge should be payable on a community sentence may have a greater impact on those aged under 40 when looking at overall figures. Table B2 indicates that community sentences are most commonly used in respect of those offenders aged under 18 and least used where the offender is aged 60 and over. Imposing a Surcharge on community sentences may therefore have a greater impact on those aged under 18 when looking at those sentenced. Table B11 shows that offenders aged 30 to 59 years are more likely to be claiming out-of-work benefits than younger offenders and therefore this group may experience a greater impact as a result of the Surcharge on community sentences.
Penalty Notices for Disorder	Table B1 indicates that 42 per cent of those people given PNDs in 2011 were 18-24 years of age. This age group is overrepresented compared to the general population. Therefore the increase of PNDs may have a greater impact upon this group.
Custodial Sentences	Table B1 indicates that persons aged 18-39 subject to custodial sentences (whether immediate or suspended) are over-represented compared to the general population, and thus imposing a Surcharge on those given a custodial sentence may have a greater impact on those aged 18-39 when looking at overall figures. Table B11 shows that offenders aged 30 to 59 years are more likely to be claiming out-of-work benefits than younger offenders and therefore this group may experience a greater impact as a result of the Surcharge on custodial sentences. The use of custodial sentences is greater for offenders aged 18 and over than those under 18. Therefore imposing a Surcharge on custodial sentences may have a greater impact on those aged 18 and over when looking at those sentenced.
Reforms in respect of	Table B2 shows that 4 per cent of persons under the age of 18

Juvenile Offenders	receive fines. This is a much smaller proportion than for other age groups. Extending the Surcharge to other disposals will mean that a larger proportion of those sentenced under the age of 18 will have to pay the Surcharge where they previously did not have to, compared to other age groups.

Disability

We are alert to the possibility that the overall package of Surcharge reforms may have an adverse impact on disabled people due to increased rates of poverty amongst this group.

The publication 'Households Below Average Income (HBAI) 1994/95-2010/11' by the Department for Work and Pensions shows that 30 per cent of disabled working age adults are in the bottom disposable household income quintile compared to 19 per cent of non disabled working age adults. The figures for the second quintile are 23 per cent and 15 per cent respectively[13]. This suggests that there are potentially heightened impacts in relation to disability.

The table below summarises the potential impacts by disability of the Surcharge reforms by individual disposal.

[13] No adjustment is made to disposable household income to take into account any additional costs that may be incurred due to illness or disability.

Disposal	Analysis
Community Sentences	51 per cent of a sample of people starting community orders stated that they had a longstanding illness, disability, or infirmity of some kind. It is a reasonable assumption that at least some of these people will be disabled under the Equality Act 2010. 33 per cent of the total sample stated that they had a health condition or disability that limits their ability to carry out everyday activities a great deal or to some extent, and 14 per cent of the total sample stated that they needed help with a physical health condition or disability. These figures compare to 22 per cent of the general population of adults[14]. Thus imposing a Surcharge on those given community sentences may have a greater impact on disabled people when looking at overall figures.
Custodial Sentences	Data from the Surveying Prisoner Crime Reduction prisoner survey suggests that around a third of prisoners aged 18 and over serving custodial sentences of less than 4 years classified themselves as having a 'longstanding illness, disability, or infirmity of any kind'[15] compared to 22 per cent of the general population of adults[16]. Thus imposing a Surcharge on those given custodial sentences may have a greater impact on disabled people when looking at overall figures.

Marriage and civil partnership

We have some data on the marital and civil partnership status of offenders who, under these reforms, would be ordered to pay a Surcharge on community and custodial sentences.

[14] 2009/10 prevalence estimates from the Office for Disability Issues.
[15] Data from http://www.justice.gov.uk/publications/statistics-and-data/reoffending/compendium-of-reoffending-statistics-and-analysis.htm
The data is from the Surveying Prisoner Crime Reduction prisoner survey and the exact question asked was" Can I check, did you have any longstanding illness, disability, or infirmity of any kind just before you came into custody? By longstanding I mean anything that has troubled you over a period of time or that is likely to affect you over a period of time. Please remember that your answer is treated in the strictest confidence and that none of this information will be passed to anyone in the prison or to any government agency that can identify you as an individual."
[16] 2009/10 prevalence estimates from the Office for Disability Issues.

Disposal	Analysis of Data
Community Sentences	51 per cent of the general population aged 18 and over is married[17]. Data from the OMCCS suggests that 8 per cent of offenders sentenced to community sentences of one month to 4 years are married[18]. Thus imposing a Surcharge on those given community sentences may have a greater impact on single people when looking at overall figures.
Custodial Sentences	51 per cent of the general population aged 18 and over is married[19]. Data from the Surveying Prisoner Crime Reduction prisoner survey suggests that 8 per cent of offenders sentenced to custodial sentences of one month to 4 years are married[20]. Thus imposing a Surcharge on those given custodial sentences may have a greater impact on single people when looking at overall figures.

Race

The analysis by ethnicity relates to those sentenced for indictable offences as detailed data by ethnicity is not available for summary offences. It should be noted that the ethnicity figures for those sentenced are based on the officer observed appearance 4+1 system and do not include the Mixed category. The general population figures do include the mixed category (1 per cent of the total).

Table B3 shows that 75 per cent of persons that would be subject to the Surcharge are from the White ethnic group and 9 per cent are from the Black ethnic group[21]. Ethnicity information is not available for 10 per cent of those sentenced. The data therefore suggests that people from the White ethnic group are under-represented as 89 per cent of the general population are from the White ethnic group. People from the Black ethnic group are over-represented as 3 per cent of the general population are Black.

Table B4 provides data on the percentage of persons sentenced for indictable offences in 2011 by ethnic group. Overall, the percentages given sentences that may be subject to the Surcharge are broadly similar.

[17] 2008 mid-year population estimates from the Office for National Statistics.
[18] Table 2.18, http://www.justice.gov.uk/downloads/publications/statistics-and-data/mojstats/spcr-full-tables-paper-5-2-prisoners-backgrounds-reconviction-a.xls
[19] 2008 mid-year population estimates from the Office for National Statistics.
[20] Table 2.18, http://www.justice.gov.uk/downloads/publications/statistics-and-data/mojstats/spcr-full-tables-paper-5-2-prisoners-backgrounds-reconviction-a.xls
[21] It should be noted that the ethnicity figures for those sentenced are based on the officer observed appearance 4+1 system and do not include the Mixed category.

Extending the Surcharge to court disposals other than fines (the only disposal on which the Surcharge is currently ordered) will mean that a larger proportion of persons sentenced in the Other ethnic group will have to pay a Surcharge where they previously did not have to make such a payment, compared to other ethnic groups, as the Other ethnic group has the smallest proportion given fines in 2011. (See Table B4).

Table B9 indicates that people from the Other ethnic group aged 18 and over will be subject to a higher estimated average Surcharge amount than other ethnic groups. This reflects the higher proportion of people from the Other ethnic group who are given more serious sentences.

Table B12 is produced from the shared DWP / HMRC / MoJ data. It shows the sentences that would be subject to a surcharge broken down by ethnicity, and additionally the proportion who are claiming out-of-work benefits, which we have used as a proxy for low income. The use of this proxy is one way to reflect the likelihood of the offender population being on a low income, but we have been unable to take into account other factors which may also indicate this such as low earnings or limited hours at work.

Table B12 shows those from the White (57 per cent) or Mixed (57 per cent) ethnic groups are more likely to be in receipt of out-of-work benefits than offenders from Black or Black British (52 per cent) Asian or Asian British (39 per cent), or 'Chinese or Other' (36 per cent) ethnic groups. This indicates that adult offenders from a White or Mixed ethnic group may experience a greater impact as a result of the Surcharge.

The table below summarises the potential impacts by race of the Surcharge reforms by individual disposal.

Disposal	Analysis
Conditional Discharges	Table B3 indicates that people from the Black ethnic group subject to conditional discharges are over-represented compared to the general population. Ordering a Surcharge on a conditional discharge may therefore have a greater impact on people from the Black ethnic group when looking at overall figures compared to the general population. Table B4 indicates that the proportion of the Black, Asian and Other ethnic group sentenced to conditional discharges is broadly similar, with the proportion of the White ethnic group slightly higher. Table B12 shows that adult offenders of White (68 per cent), Mixed (67 per cent) or Black or Black British (62 per cent) ethnicity were more likely to be in receipt of out-of-work benefits. This compares to 50 per cent of adult offenders of Asian or Asian British ethnicity, and 47 per cent of offenders from an 'Other' ethnic group. Therefore adults of White, Mixed and Black or Black British backgrounds may experience a greater impact as a result of the Surcharge on conditional discharges.
Fines	Table B3 indicates that people from the Black ethnic group given fines are over-represented compared to the general population, and thus increasing the Surcharge for fines may have a greater impact on people from the Black ethnic group when looking at overall figures compared to the general population. Table B4 indicates that the proportion of White, Black and Asian people sentenced to a fine is broadly similar, though lower for the Other category and higher for 'Unknown'. Table B12 shows that adult offenders of Black or Black British (52 per cent), White (50 per cent) or Mixed (57 per cent) ethnicity were more likely to be in receipt of out-of-work benefits. This compares to 35 per cent of adult offenders of Asian or Asian British ethnicity, and 31 per cent of offenders from a 'Chinese or Other' ethnic group[22]. Therefore adults of Black or Black British, White or Mixed ethnicity may experience a greater impact as a result of the increased Surcharge on fines. The proposal to set the level of the Surcharge on fines to a percentage of

[22] The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). The PNC largely covers 'recordable' offences. However, the PNC does not generally cover the less serious summary offences such as TV licence evasion and less serious motoring offences, which are more likely to receive a sentence of a fine. Coverage across all sentence types is generally very high with the exception of fines, where the PNC includes less than a fifth (19 per cent) of all fines given out by the courts. As a result, care must be taken when interpreting these findings, particularly for the analysis on offenders receiving a fine.

	the value of the fine amount would see higher fines receiving a higher Surcharge, in order to reflect the seriousness of the sentence. The Surcharge payable on a fine would range from £20 to £120.
Community Sentences	Table B3 indicates that people from the Black ethnic group subject to community sentences are over-represented compared to the general population, and thus imposing a Surcharge on those given community sentences may have a greater impact on persons from the Black ethnic group when looking at overall figures. Table B4 indicates that the proportion of White, Black and Asian people sentenced to community sentences is broadly similar but lower for the Other category. Table B12 shows that adult offenders of White (60 per cent), Mixed (62 per cent) or Black or Black British (58 per cent) ethnicity were more likely to be in receipt of out-of-work benefits. This compares to 43 of adult offenders of Asian or Asian British ethnicity, and 39 per cent of offenders from a 'Chinese or Other' ethnic group. Therefore adults of White, Mixed or Black or Black British ethnicity may experience a greater impact as a result of the Surcharge on community sentences.
Penalty Notices for Disorder	Table B3 suggests that most of the people who would be affected by our reforms to increase the value of PNDs would be White. Even so, this ethnicity is underrepresented amongst those people getting PNDs as 71 per cent of individuals receiving PNDs were White whereas 89 per cent of the general population are of this ethnicity. However, 18 per cent of persons given PNDs in 2011 had unknown ethnicity.
Custodial Sentences	Table B3 indicates that persons from the Black ethnic group given custodial sentences are over-represented compared to the general population, and thus imposing a Surcharge on those given custodial sentences may have a greater impact on those from the Black ethnic group when looking at overall figures. Table B4 indicates that amongst those sentenced the use of custodial sentences is highest for the Other ethnic group. Therefore imposing a Surcharge on custodial sentences may have a greater impact on people from the Other ethnic group when looking amongst those sentenced. In relation to immediate custody, table B12 shows that adult offenders of White (53 per cent) or Mixed (44 per cent) ethnicity were more likely to be in receipt of out-of-work benefits. This compares to 36 and 38 per cent of adult offenders of Asian or Asian British or Black or Black British ethnicity, and 30 per cent of offenders from a 'Chinese or Other' ethnic group. For suspended

	sentences, table B12 shows that adult offenders of Mixed (62 per cent) or White (59 per cent) ethnicity were more likely to be in receipt of out-of-work benefits, compared to 55 per cent of adult offenders from Black or Black British ethnic groups, 42 per cent of offenders from Asian or Asian British ethnic groups and 41 per cent of offenders from a 'Chinese or Other' ethnic group. Therefore adults of Mixed or White ethnicity may experience a greater impact as a result of the Surcharge on custodial sentences.

Religion or Belief

We have some data on the religion or belief of offenders who, under these reforms, would be ordered to pay a Surcharge on custodial sentences.

Disposal	Analysis of Data
Custodial Sentences	Table B7 shows that 46 per cent of sentenced prison receptions were Christian and 42 per cent had no religion. People with no religion were over represented, as 22 per cent of the general population in England had no religion. Therefore imposing a Surcharge on those given custodial sentences may have a greater impact on those with no religion when looking at overall figures. Table B13 is produced from the shared DWP / HMRC / MoJ data. It shows the stated religion for those sentenced to custody, and additionally the proportion who are claiming out-of-work benefits, as a proxy for low income. Table B13 shows that 61 per cent of Mormons, 54 per cent of Anglicans and 52 per cent of offenders with 'No Religion', were in receipt of out-of-work benefits. These are greater proportions than that of other stated religions (36-50 per cent) indicating that these offenders may experience a greater impact as a result of the Surcharge.

Sex

Table B5 shows that males would be subject to a larger proportion of sentences that would be subject to the Surcharge than females. In 2011, 73 per cent of sentences that would be subject to the Surcharge under the reforms were imposed on males, although only 49 per cent of the general population is male. Therefore, the overall package of Surcharge reforms is likely to have a greater impact on males than females, when looking at overall figures.

Table B6 displays data on the percentage of persons sentenced in 2011 by gender. Overall, the percentage given sentences that may be subject to the Surcharge is similar for males and females.

Table B6 also indicates that implementing the entire package of Surcharge reforms may mean that a larger proportion of sentenced males will have to pay the Surcharge when they previously did not have to, as a lower proportion than females are currently sentenced to fines (the only disposal on which the Surcharge is currently payable).

Table B10 includes data outlining the estimated average Surcharge payable for all court disposals. This indicates that males aged 18 and over will pay more than females.

Table B14 is produced from the shared DWP / HMRC / MoJ data. It shows the sentences that would be subject to a surcharge broken down by sex, and additionally the proportion who are claiming out-of-work benefits, as a proxy for low income. This proxy measure is one way to reflect the likelihood of the offender population being on a low income, but we have been unable to take into account other factors which may also indicate this such as low earnings or limited hours at work.

Table B14 shows that 63 per cent of female and 53 per cent of male adult offenders claim out-of-work benefits. This suggests females may experience a greater impact as a result of the Surcharge.

The OMCCS data suggests that a higher proportion of single females live with dependant children. 34 per cent of single, (never married), divorced, separated or widowed females lived with dependant children, compared to 3 per cent of single, (never married), divorced, separated or widowed males. However, included in these figures may be offenders who live with another adult who shares parenting responsibility for their children. Female prisoners are more likely to have lived on their own with dependent children than men prior to entering prison custody. In the 2003 Resettlement Survey, around half of women living with dependent children reported living alone with these children, compared to less than one in ten men. The 2004 survey found this to be around one-third of women compared to around one in twenty men[23].

A higher proportion of females compared to males are looking after children. For example, 16 per cent of the females in the OMCCS sample were looking after a child/children (during the week, during the day), compared to 4 per cent of males (Table B15). There was little difference in the proportion of males and females looking after someone sick or disabled (in the daytime on a weekday), with 2 per cent of males and 4 per cent of females having this as their main activity.

The table below summarises the potential impacts by sex of the Surcharge reforms by individual disposal.

[23] Prisoners' childhood and family backgrounds: Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners

Disposal	Analysis
Conditional Discharges	Table B5 indicates that males given conditional discharges are over-represented compared to the general population, and thus imposing a Surcharge on those given conditional discharges may have a greater impact on males when looking at overall figures compared to the general population. However, table B6 indicates that applying the Surcharge to conditional discharges equally impacts males and females amongst offenders, at a proportion of 7 per cent of total sentences imposed. Table B14 shows that 71 per cent of female and 64 per cent of male adult offenders were in receipt of benefits. Therefore females may experience a greater impact as a result of the Surcharge on conditional discharges.
Fines	Table B5 indicates that the proportion of males sentenced to a fine are over-represented compared to the general population, and thus increasing the Surcharge for fines may have a greater impact on males when looking at overall figures compared to the general population. Analysis of Table B6 shows that 77 per cent of females are sentenced to a fine (as opposed to 61 per cent of males). Therefore increasing the Surcharge may have a greater impact on females when looking at those sentenced. Table B14 shows that 53 per cent of female and 47 per cent of male adult offenders were in receipt of out-of-work benefits[24]. Therefore females may experience a greater impact as a result of the increased Surcharge on fines. Our reforms to increase the level of the Surcharge payable on fines to a percentage of the fine amount would see offenders sentenced to higher fines paying a higher Surcharge in order to reflect the seriousness of the sentence. This would range from £20 to £120.

[24] The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). The PNC largely covers 'recordable' offences. However, the PNC does not generally cover the less serious summary offences such as TV licence evasion and less serious motoring offences, which are more likely to receive a sentence of a fine. Coverage across all sentence types is generally very high with the exception of fines, where the PNC includes less than a fifth (19 per cent) of all fines given out by the courts. As a result, care must be taken when interpreting these findings, particularly for the analysis on offenders receiving a fine.

Community Sentences	Table B5 indicates that males given community sentences are over-represented compared to the general population, and thus imposing a Surcharge on those given community sentences may have a greater impact on males when looking at overall figures. Table B6 indicates that 10 per cent of females are given a community sentence (as opposed to 15 per cent for males), and thus imposing a Surcharge on those subject to community sentences may have a greater impact on males when looking at those sentenced. Table B14 shows that 67 per cent of female and 58 per cent of male adult offenders were in receipt of out-of-work benefits. Therefore females may experience a greater impact as a result of the Surcharge on community sentences.
Penalty Notices for Disorder	Table B5 indicates that 76 per cent of individuals given PNDs were male compared to 49 per cent of the general population which is male and thus increasing the amount of PNDs may have a greater impact on males when looking at overall figures compared to the general population.
Custodial Sentences	Table B5 indicates that males given custodial sentences are over-represented compared to the general population, and thus imposing a Surcharge on those given custodial sentences may have a greater impact on males when looking at overall figures. Table B6 indicates that more males are sentenced to custodial sentences (whether these are immediate or suspended) and therefore will generally be subject to a higher Surcharge than females. In 2011, 3 per cent of females were given immediate custodial sentences (compared to 10 per cent of males), and 2 per cent of females were given suspended sentences (as opposed to 4 per cent of males). Therefore imposing a Surcharge on those give custodial sentences may have a greater impact on males when looking at those sentenced. For immediate custodial sentences, table B14 shows that 63 per cent of female and 49 per cent of male adult offenders were in receipt of out-of-work benefits. For suspended sentences, table B14 shows that 66 per cent of female and 56 per cent of male adult offenders were in receipt of out-of-work benefits. Therefore females may experience a greater impact as a result of the Surcharge on custodial sentences.

Table B1 Age breakdown of persons sentenced for indictable offences or given a Penalty Notice for Disorder (PND) by result, 2011
England and Wales

	Under 18	18-20	21-24	25-29	30-39	40-49	50-59	60+	Total
Community sentence	26%	13%	14%	14%	20%	11%	3%	1%	100%
Conditional Discharge	8%	12%	15%	16%	26%	16%	5%	2%	100%
Fine	2%	14%	20%	20%	24%	14%	5%	2%	100%
Immediate custody	4%	12%	17%	20%	27%	14%	4%	2%	100%
Suspended sentence	0%	12%	18%	19%	27%	16%	6%	2%	100%
Total sentences subject to Victim Surcharge	**11%**	**13%**	**16%**	**17%**	**24%**	**13%**	**4%**	**1%**	**100%**
PNDs	5%	21%	21%	16%	17%	12%	5%	3%	100%
General population - E&W	11%	5%	6%	8%	15%	17%	14%	26%	100%

Source:

Further analysis of Criminal Justice System Statistics 2011
Population - Mid 2010 Population Estimates, Office for National Statistics

Table B2 Persons sentenced at all courts for indictable offences by age group and result, 2011
England and Wales

	Under 18	18-20	21-24	25-29	30-39	40-49	50-59	60+	Total
Community sentence	70%	30%	25%	23%	24%	23%	21%	16%	29%
Conditional Discharge	9%	12%	11%	12%	13%	14%	15%	14%	12%
Fine	4%	19%	21%	20%	17%	18%	19%	19%	17%
Immediate custody	10%	24%	27%	29%	28%	26%	26%	29%	25%
Suspended sentence	0%	10%	11%	11%	11%	12%	14%	15%	10%
Total subject to Victims Surcharge	**93%**	**94%**	**95%**	**95%**	**94%**	**93%**	**94%**	**93%**	**94%**
Absolute discharge	2%	0%	0%	0%	0%	0%	0%	1%	1%
Otherwise dealt with	5%	5%	5%	5%	6%	6%	6%	6%	5%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source:

Further analysis of Criminal Justice System Statistics 2011

Table B3 Ethnic breakdown of persons sentenced for indictable offences or given a Penalty Notice for Disorder (PND) by result, 2011
England and Wales

	White	Black	Asian	Other	Unknown	Total
Community sentence	76%	9%	4%	1%	9%	100%
Conditional Discharge	80%	7%	3%	1%	9%	100%
Fine	72%	10%	5%	1%	11%	100%
Immediate custody	72%	10%	6%	3%	9%	100%
Suspended sentence	75%	8%	5%	2%	10%	100%
Total subject to Victim Surcharge	**75%**	**9%**	**5%**	**2%**	**10%**	**100%**
PNDs	**71%**	**2%**	**5%**	**4%**	**18%**	**100%**

	White	Mixed	Asian or Asian British	Black or Black British	Chinese or Other ethnic group	Total
General population - E&W	89%	1%	6%	3%	2%	100%

Source:

Further analysis of Criminal Justice System Statistics 2011

General population estimates are from the 2009 Population Estimates by Ethnic Group, Office for National Statistics.
As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only.

Table B4 Persons sentenced at all courts for indictable offences by ethnicity and result, 2011
England and Wales

	Ethnicity					
	White	Black	Asian	Other	Unknown	Total
Community sentence	30%	29%	26%	20%	28%	29%
Conditional Discharge	13%	9%	8%	8%	12%	12%
Fine	17%	18%	19%	11%	20%	17%
Immediate custody	25%	28%	31%	43%	23%	25%
Suspended sentence	10%	8%	11%	13%	11%	10%
Total subject to Victims Surcharge	**94%**	**93%**	**94%**	**95%**	**94%**	**94%**
Absolute discharge	1%	0%	0%	0%	1%	1%
Otherwise dealt with	5%	7%	6%	5%	5%	5%
Total	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**

Source:

Further analysis of Criminal Justice System Statistics 2011

Table B5 Gender breakdown of persons sentenced or given a Penalty Notice for Disorder (PND) by result, 2011
England and Wales

	Males	Females	All persons [1]
Community sentence	83%	16%	100%
Conditional Discharge	75%	24%	100%
Fine	68%	27%	100%
Immediate custody	92%	8%	100%
Suspended sentence	84%	15%	100%
Total sentences subject to Victim Surcharge	73%	23%	100%
PNDs	76%	24%	100%
General population - E&W	49%	51%	100%

(1) Includes cases reported to the Ministry of Justice as sex ' not stated'.

Source:

Further analysis of Criminal Justice System Statistics 2011
Population - Mid 2010 Population Estimates, Office for National Statistics

Table B6 Persons[1] sentenced at all courts by gender and result, 2011
England and Wales

	Males	Females	All persons [1]
Community sentence	15%	10%	13%
Conditional Discharge	7%	7%	7%
Fine	61%	77%	65%
Immediate custody	10%	3%	8%
Suspended sentence	4%	2%	4%
Total subject to Victims Surcharge	**97%**	**98%**	**97%**
Absolute discharge	1%	1%	1%
Otherwise dealt with	3%	1%	2%
Total	100%	100%	100%

(1) Includes cases reported to the Ministry of Justice as sex ' not stated'.

Source:

Further analysis of Criminal Justice System Statistics 2011

Table B7: Sentenced prison receptions by religion, 2008, England and Wales

	Sentenced prison receptions	General population (2010/11) England	Wales
Christian	46.3%	68.5%	66.1%
Buddhist	0.9%	0.4%	0.3%
Hindu	0.5%	1.5%	0.5%
Jewish	0.1%	0.5%	0.1%
Muslim	8.2%	4.9%	1.2%
Sikh	0.8%	0.8%	0.1%
Other religion	0.1%	1.1%	1.2%
Non-recognised	0.9%	n/a	n/a
No religion	42.1%	22.4%	30.6%
Total	100.0%	100.0%	100.0%

1. General population figures are for all ages and are from the Integrated Household Survey, Office for National Statistics. Respondents were asked the question 'What is your religion, even if you are not currently practising?'

Source: Further analysis of Offender Management Statistics

Table B8: Estimated average victim surcharge payable for court disposals by age group, based on 2011 data for indictable offences

Under 18	18 - 20	21 - 24	25 - 29	30 - 39	40 - 49	50 - 59	60+	All
£15	£59	£60	£61	£60	£60	£61	£65	£55

Source: Further analysis of Criminal Justice Statistics

Table B9: Estimated average victim surcharge payable for court disposals by ethnicity, based on 2011 data for indictable offences

	White	Black	Asian	Other	Unknown	All
Under 18	£15	£15	£15	£16	£15	£15
18+	£59	£63	£65	£74	£61	£60

Source: Further analysis of Criminal Justice Statistics

Table B10: Estimated average victim surcharge payable for court disposals by gender, based on 2011 data

	Female	Male	Unstated	All
Under 18	£15	£15	£15	£15
18+	£30	£39	£28	£37

Source: Further analysis of Criminal Justice Statistics

Table B11: Out-of-work benefit status for offenders in the month before sentence, by disposal type and age, for offenders in the **shared DWP / HMRC / MoJ** data sentenced in the year ending 30 November 2010 and recorded on the PNC

Disposal Type	Proportion of sentences received						
	18-20	21-24	25-29	30-39	40-49	50-59	All
Conditional Discharge	**15%**	**17%**	**16%**	**26%**	**19%**	**7%**	**63,900**
Of which claim out-of-work benefits	*57%*	*62%*	*65%*	*71%*	*71%*	*71%*	*42,300*
Fine	**13%**	**20%**	**19%**	**25%**	**17%**	**7%**	**144,900**
Of which claim out-of-work benefits	*47%*	*45%*	*46%*	*51%*	*53%*	*50%*	*70,800*
Community Penalty	**18%**	**19%**	**18%**	**25%**	**15%**	**5%**	**123,600**
Of which claim out-of-work benefits	*50%*	*58%*	*61%*	*65%*	*63%*	*61%*	*73,700*
Suspended sentences	**12%**	**20%**	**19%**	**27%**	**17%**	**5%**	**42,900**
Of which claim out-of-work benefits	*54%*	*54%*	*57%*	*61%*	*62%*	*62%*	*25,000*
Immediate Custody	**13%**	**20%**	**20%**	**28%**	**15%**	**4%**	**76,100**
Of which claim out-of-work benefits	*41%*	*44%*	*49%*	*55%*	*58%*	*57%*	*38,400*
All disposals affected by surcharge	**14%**	**19%**	**18%**	**26%**	**17%**	**6%**	**451,500**
Of which claim out-of-work benefits	*49%*	*51%*	*54%*	*59%*	*60%*	*58%*	*250,300*
Population of England and Wales 2010 (aged 18-59)	**7%**	**10%**	**12%**	**23%**	**26%**	**21%**	

Source for population data: Mid 2010 Population Estimates, Office for National Statistics

Notes
Calculated from total number of offenders in the matched data aged 18-59 where age was known

Table B12: Out-of-work benefit status for offenders in the month before sentence, by disposal type and stated race, for offenders in the **shared DWP / HMRC / MoJ** data sentenced in the year ending 30 November 2010 and recorded on the PNC

Aged 18 years and older

Disposal type	Proportion of sentences received					
	White	Mixed	Asian or Asian British	Black or Black British	Chinese or Other	Total
Conditional Discharge	**89%**	**2%**	**3%**	**5%**	**1%**	**60,700**
Of which claim benefits	*68%*	*67%*	*50%*	*62%*	*47%*	*40,500*
Fine	**84%**	**3%**	**5%**	**7%**	**1%**	**136,500**
Of which claim benefits	*50%*	*57%*	*35%*	*52%*	*31%*	*67,900*
Community Penalty	**87%**	**3%**	**4%**	**6%**	**1%**	**123,700**
Of which claim benefits	*60%*	*62%*	*43%*	*58%*	*39%*	*73,500*
Suspended sentences	**84%**	**3%**	**5%**	**7%**	**1%**	**43,400**
Of which claim benefits	*59%*	*62%*	*42%*	*55%*	*41%*	*25,100*
Immediate Custody	**82%**	**3%**	**5%**	**9%**	**1%**	**76,900**
Of which claim benefits	*53%*	*44%*	*36%*	*38%*	*30%*	*38,600*
All disposals affected by surcharge	**85%**	**3%**	**5%**	**7%**	**1%**	**441,300**
Of which claiming benefits	*57%*	*57%*	*39%*	*52%*	*36%*	*245,600*
General population - E&W (aged 18 years and older)	**89%**	**1%**	**6%**	**3%**	**2%**	

Source for population data: Experimental Population Estimates by Ethnic Group in England and Wales for

Notes

Calculated from total of offenders in the matched data where age and race was known

Excludes 'not stated', 3% (n=11,500) of all offenders sentenced

Includes a small proportion of offenders aged 60 years or older, where out-of-work benefits are not a relevant proxy for low income. Offenders in this age group account for 2% (n=11,200) of all offenders subject to a disposal affected by the surcharge.

Table B13: Out-of-work benefit status for offenders in the month before custodial sentence, by religion, for offenders in the **shared DWP / HMRC / MoJ** data sentenced in the year ending 30 November 2010 and recorded on the PNC

Aged 18 years and older

Religion	Proportion of custodial sentences	*Of which claiming benefits*
Anglican	24%	*54%*
Free Church	1%	*46%*
Hindu	<1%	*33%*
Jew	<1%	*43%*
Mormon	1%	*61%*
Muslim	8%	*36%*
No religion	36%	*52%*
Other	11%	*50%*
Roman Cathol	18%	*48%*
Sikh	1%	*37%*
All offenders	74,900	*37,600*

Notes

Calculated from total of offenders in the matched data where religion and age was known

Includes a small proportion of offenders aged 60 years or older, where out-of-work benefits are not a relevant proxy for low income. Offenders in this age group account for 2% (n=1,300) of all offenders sentenced to immediate custody.

Table B14: Out-of-work benefit status for offenders in the month before sentence, by disposal type and sex, for offenders in the **shared DWP / HMRC / MoJ** data sentenced in the year ending 30 November 2010 and recorded on the PNC

Aged 18 years and older

Disposal type	Proportion of sentences		
	Females	Males	Total
Conditional Discharge	**23%**	**77%**	**65,500**
Of which claim out-of-work benefits	*71%*	*64%*	*42,800*
Fine	**14%**	**86%**	**149,800**
Of which claim out-of-work benefits	*53%*	*47%*	*71,700*
Community Penalty	**17%**	**83%**	**125,200**
Of which claim out-of-work benefits	*67%*	*58%*	*74,100*
Suspended sentences	**15%**	**85%**	**43,800**
Of which claim out-of-work benefits	*66%*	*56%*	*25,200*
Immediate Custody	**8%**	**92%**	**77,400**
Of which claim out-of-work benefits	*63%*	*49%*	*38,700*
All disposals affected by surcharge	**15%**	**85%**	**461,700**
Of which claim out-of-work benefits	63%	53%	252,500
Population of England and Wales 2010 (aged 18+)	**49%**	**51%**	

Source for population data: Mid 2010 Population Estimates, Office for National Statistics

Notes

Calculated from total number of offenders in the matched data where age and gender was known

Includes a small proportion of offenders aged 60 years or older, where out-of-work benefits are not a relevant proxy for low income. Offenders in this age group account for 2% (n=11,200) of all offenders subject to a disposal affected by the surcharge.

Table B15: Main activity of offenders in last seven days by sex

	Male	Female	Total
Looking for paid work / preparing to be self-employed/unpaid work (not domestic work)	49%	23%	44%
Activities related to my sentence (attending programmes etc)	7%	8%	8%
Training	5%	6%	5%
Looking after a child / children (in the daytime on a weekday)	4%	16%	6%
Looking after someone sick or disabled (in the daytime on a weekday)	2%	4%	3%
Looking after the home (in the daytime on a weekday)	3%	19%	6%
Off sick / focus was health condition or disability	22%	19%	22%
Other	6%	4%	6%
Total	100%	100%	100%
Unweighted base			*1,946*

Source: Interim dataset for the first wave of the Offender Management Community Cohort Study
The figures may change when the data is finalised.

Due to weighting there may be rounding errors in the data

Annex C - Information sources and evidence

The analysis in this EIA draws on a range of data sources, which address each of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

Recent research and guidance from a range of national and local sources – to help identify relevant equality issues, we drew on national and local research and guidance. In this EIA, we have cited the following:

- *Crime in England and Wales: Findings from the Crime Survey for England and Wales (CSEW):* The CSEW measures the amount of crime in England and Wales. The CSEW also helps identify those most at risk of different types of crime and includes data on respondents' gender, ethnicity, age, disability and marital status;
- *Vulnerable and Intimidated Witnesses: A Police Service Guide, MoJ, 2011* - this guidance is designed to assist police officers through a number of processes that will afford a vulnerable or intimidated witness equal access to the criminal justice system;
- *Witness and Victim Experience Survey (WAVES), MoJ, 2009/10*: examines victims' and witnesses' experiences of the Criminal Justice System on a national level;
- *Statistics on Women and the Criminal Justice System 2009/10:* publishes details relating to women's experience of the CJS as victims, suspects, defendants, offenders and employees;
- *Households Below Average Income (HBAI) 1994/95-2010/11, Department for Work and Pensions*: presents data on the household income by characteristics of individuals and households.
- *Equality and Human Rights Commission analysis of ONS Annual Population Survey (October 2006-September 2009).* Results averaged over three years' data;
- *Criminal Justice Statistics 2010, England and Wales*: Present key trends of activity in the Criminal Justice System;
- *Offender Management Caseload Statistics 2010:* Annual offender management caseload statistics, covering probation and prisons in England and Wales;
- *Statistics on Race and the Criminal Justice System: 2010. London: MOJ:* this publication reports statistical information on the representation of black and minority ethnic groups as suspects, offenders and victims within the criminal justice system;

- *The National Prison Survey 1991, Dodd & Hunter (1992):* this collected information about the background characteristics and circumstances of prisoners, and information on prison regimes and life in prison in England and Wales.
- *Surveying Prisoner Crime Reduction Survey 2005/06:* this was a longitudinal cohort study in 2005/6 of 1,435 newly sentenced adult prisoners, sentenced to less than 4 years in custody, in England and Wales.
- *Integrated Household Survey April 2010 to March 2011: Experimental Statistics:* this publication reports statistical information on the sexual identity and religion of the general population.

Annex D – List of respondents to the consultation

The respondents to the consultation who gave details included: individual members of the judiciary, members of the House of Commons and House of Lords, academics, members of the public and the following organisations:

Association of Chief Police Officers (ACPO)
Action for Prisoners' Families
Action Fraud
Advocacy After Fatal Domestic Abuse
Aftermath Support
Alzheimer's Society
Associated Society of Locomotive Steam Enginemen and Firemen (ASLEF)
Association of Convenience Stores
Association of Personal Injury Lawyers
Association of Police Authority Chief Executives
Association of Police Authorities
Avon and Somerset Constabulary
Avon and Somerset Criminal Justice Board
Avon and Somerset Police Authority
Avon and Somerset Probation Trust
Barnardo's
Criminal Bar Association
Bedfordshire Criminal Justice Board
Birmingham Council
Black Training & Enterprise Group (BTEG)
Brake

British Association for Counselling and Psychotherapy
British Dyslexia Association
British Psychological Society
British Retail Consortium

Co-ordinated Action Against Domestic Abuse
Caritas Social Action Network
Catch22
Child Bereavement Charity
Cleggs Solicitors
Cleveland Police
Clydebank Women's Aid
Greater Manchester Safeguarding Partnership
Crown Prosecution Service (CPS)
Communication Workers Union
Coventry Rape & Sexual Abuse Centre
Crimematters Ltd
Criminal Justice Alliance
Criminal Justice Council for England & Wales
Cruse Bereavement Care
Derbyshire Constabulary
Derbyshire Criminal Justice Board
Devon and Cornwall Police
Devon and Cornwall Probation Trust
Devon Rape Crisis Service
Disaster Action
Diverse Cymru
Durham Police
Durham Tees Valley Probation Trust
EAD Solicitors
Eaves
Eaves', Hogan Lovells International LLP and Jessica Smeaton
Emmersons Solicitors
Equality 2025
Escaping Victimhood
False Allegations Support Organisation
First Step

First Step Leicester
First-tier Tribunal Criminal Injuries Compensation
FPWP Hibiscus
Galop
Gender Identity Research and Education Society
GMB
Greater Manchester Police
Greater Manchester Police Authority
Halton Borough Council
Hampshire Autistic Society
Hertfordshire Constabulary
Hertfordshire Police Authority
Hillingdon Council
HM Crown Prosecution Service Inspectorate
HM Courts and Tribunals Service
Humberside Criminal Justice Board
Institute of Advanced Motorists (IAM)
Incest & Sexual Abuse Survivors (ISAS)
Independent Academic Research Studies
Independent Police Complaints Commission
Interact (BH Impetus)
Iranian and Kurdish Women's Rights Organisation
Irwin Mitchell Solicitors
Justice After Acquittal
Justice for Victims Scotland
Justices' Clerks' Society
Kirklees Council
KnifeCrimes.Org
Lancashire Probation Trust
Law Society
Legal Services Agency
Leo Abse and Cohen solicitors
Lexicon Limited

Liberty
Local Government Association
London Criminal Courts Solicitors Association
Luton Assembly
Magistrates Association
MAMAA UK
Manchester City Council
Mayor Of London
Mencap
Metropolitan Police
Mind
Missing People
Mothers Against Violence North East/Chris Cave Foundation

Nacro
National Accident Helpline
National Bench Chairmen's Forum
National LGBT Partnership
National Union of Teachers
National Victims' Association
Newcastle City Council
Norfolk and Suffolk Probation Trust
Norfolk County Council
North East Lincolnshire Council
North Yorkshire Criminal Justice Board
Northern Rock Foundation
Northumbria Police
Northumbria Probation Trust
National Policing Improvement Agency (NPIA)
National Society for the Prevention of Cruelty to Children
(NSPCC)
National Union of Students (NUS)
Office of the Children's Commissioner
Older People's Commissioner for Wales

Oxford Pedestrian Association
Parliamentary and Health Service Ombudsman
Petal Support Limited
Peterborough Rape Crisis
Police Authorities of Wales
Police Federation of England & Wales
Prison Reform Trust
Prisons Advice and Care Trust
Probation Association
Probation Chiefs Public Protection Group

Protection Against Stalking
Public and Commercial Services Union

Quaker Peace and Social Witness
Rape Crisis England and Wales
Register of Restorative Practitioners
Reading Borough Council
Remedi
Respect
Respond
Restorative Justice Council
Restorative Solutions CIC
Rights of Women
Rise
National Union of Rail, Maritime and Transport Workers
(RMT)
RNIB Cymru
Road Victims Trust
RoadPeace
Royal Bolton Hospital NHS Foundation Trust
Royal College of Nursing
Safer Sunderland Partnership
Support After Murder and Manslaughter (SAMM) Abroad

Support After Murder and Manslaughter (SAMM)
Merseyside
Support After Murder and Manslaughter (SAMM) National
Scottish Consortium for Learning Disability
Scottish Women's Aid
Self
Serious Organised Crime Agency (SOCA)
Signature
Skills for Justice
Social Landlords Crime and Nuisance Group
Soldiers, Sailors, Airmen and Families Association
South Yorkshire Police
Southall Black Sisters
St Helens Council
Staffordshire County Council
Staffordshire Police Authority
Stockport Council
Stonewall
Survivors Trust
Sussex Criminal Justice Board
Sussex Police Authority
Suzy Lamplugh Trust
Swale Borough Council
Thames Valley Police Authority
Thames Valley Probation
The Bar Council
The City Law School
The Coalition for the Removal of Pimping
The Forgiveness Project
The Lesbian & Gay Foundation
The Moira Fund
The Trust for Homicide Research, Education &
Development & Support

Thompsons Solicitors

Through Unity

Transport for London

Trade Union Congress (TUC)

UNISON

Unite

Union of Shop, Distributive and Allied Workers **(**USDAW**)**

Victim Support

Victim Support Europe

Victim Support Scotland

Victims Services Alliance

Walker Smith Way Solicitors

Welsh Government

Welsh Women's Aid

West Berkshire Council

West Mercia Women's Aid

West Midlands Police

West Midlands Police Authority

West Yorkshire Criminal Justice Board

West Yorkshire Police Authority

Why Me? UK

Wiltshire Council

Women Against Rape

Women's Aid

Women's Resource Centre

Wyre Council

Youth Justice Board

Annex E - DWP / HMRC / MoJ shared data

The Offending, employment and benefits data-sharing project between MoJ, DWP and HMRC was created to improve the evidence base on the links between offending, employment and benefits shaping how we drive forward action on reducing re-offending and welfare dependency.

Full legal and ethical approval for the project was obtained in December 2010. The agreed data was shared and successfully matched (86 per cent match rate) in early 2011, resulting in a dataset of approximately 3.6 million unique offenders with 40 million rows of sentencing, employment or benefit spells.

In the absence of a unique identifier to link MoJ records with DWP/HMRC records, matching rules were developed and tested based around five key variables (forename, surname, date of birth, gender and postcode).

The linked MoJ/DWP/HMRC data has already proven very valuable for policy development and improving the evidence base on the links between offending, employment and benefits. There is a lot of potential for the matched data to be used to improve policy/evidence base in the future and to move to a regular data-share (providing legal and ethical approval is obtained).

The data matching was successful where 86 per cent of the MoJ offender records (from the Police National Computer (PNC) extract) were matched to DWP/HMRC data. Therefore, for the unmatched offenders (14 per cent of offenders in the PNC), we do not have any DWP/HMRC data[25]. This is unlikely to affect the results of analysis however, as work has been undertaken to look at the representativeness of the matched and unmatched data which suggests there is only very limited bias in the matched data.

The only employment data included in the linked data is from HMRCs P45 data which DWP holds. P45 start and end dates are the only variables on employment in the matched data. There are several limitations on the P45 data which need to be taken into account.

- the matched data only has information on P45 employment. It does not cover self-employed or cash in hand jobs;
- the matched data does not include any information on offenders' income, number of hours worked, or type of employment; and
- there are data quality issues with the P45 data. The matched data has been cleaned to resolve several data quality issues but there will still be issues with data quality.

Coverage of fines. The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). The PNC largely covers

[25] This includes both offenders who genuinely have no benefit or P45 employment records (as for example they are still in some form of education and have not claimed or are self employed and have not claimed benefits), and offenders that we have been unable to successfully match who did have a valid benefit or P45 employment record.

'recordable' offences. However, the PNC does not generally cover the less serious summary offences such as TV license evasion and less serious motoring offences, which are more likely to receive a sentence of a fine. Coverage across all sentence types is generally very high with the exception of fines, where the PNC includes less than a fifth (19 per cent) of all fines given out by the courts. As a result, care must be taken when interpreting these findings, particularly for the analysis on offenders receiving a fine.

Immediate custody: Sentence type findings are affected by the fact that at the time of sentence, a proportion of offenders will be remanded in custody before sentencing, particularly for certain offence types. The start date of the prison spell has been used in this analysis. However, the linked data does not record the remand period for all offenders in this period so the findings for offenders sentenced to immediate custody may be an underestimate.

Caveat on the benefits data: The data on benefits and P45 employment has been sourced from the Work and Pensions Longitudinal Study (WPLS), which links benefits and programme information held by DWP on its customers, with employment records from HMRC. This includes the following benefits: Attendance Allowance, Bereavement Benefit, Carers Allowance, Disability Living Allowance, Employment and Support Allowance, Incapacity Benefit, Income Support, Jobseeker's Allowance, Passported Incapacity Benefit, Pension Credit, Retirement Pension, Severe Disablement Allowance, Widow's Benefit. JSA can usually only be claimed once someone turns 18, so very few 16-17 year olds claim JSA.

An individual can be recorded as having a spell on a benefit and usually that will mean that the individual is in receipt of a benefit payment. However, an individual can be recorded as being on a particular benefit but they are not in receipt of payment as they do not meet the full conditions at that particular time (this could be because payment is suspended while a person is in prison). The shared dataset does not contain information relating to the rate of benefit in payment.

Protected Characteristics: Protected characteristics shown in the tables from the shared DWP / HMRC / MoJ data have been created from linked Criminal Justice System data by the Data Improvement Project team. Through data linking, we are able to gather more robust evidence on the likely profile of offenders, including protected characteristics.

Offenders under the age of 18: Findings from the linked data on offenders under the age of 18 should be treated with caution, as very few offenders in this age group would be eligible to claim out-of-work benefits. In addition, due to the time lag between the period covered by the data-share and capture on the PNC, the true volume of offences committed by those aged under 18 years in particular may be subject to under-reporting.