

<b>Title:</b> Limitation Law in Child Sexual Abuse Cases Consultation 2024	<b>Impact Assessment (IA)</b>
<b>IA No:</b> MoJ073/2023	
<b>RPC Reference No:</b> N/A	
<b>Lead department or agency:</b> Ministry of Justice	
<b>Other departments or agencies:</b> N/A	
	<b>Date:</b> 15 05 2024 <b>Updated:</b> 10 01 25
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
	<b>Contact for enquiries:</b> limitationlawconsultation@Justice.gov.uk
<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> N/A

**Cost of Preferred (or more likely) Option (in 2023 prices)**

Total Net Present Social Value N/A	Business Net Present Value N/A	Net cost to business per year N/A	Business Impact Target Status Not a regulatory provision

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

Limitation law sets time limits within which a party must bring a claim, or give notice of a claim, to the other party in a legal dispute. The present law on limitation in England and Wales is primarily contained in the Limitation Act 1980 which sets a range of time limits for various types of civil claims. Child sexual abuse claims are normally treated as personal injury claims and are usually subject to a three-year limitation period. This means that claims must be brought within three years of the abuse happening or the victim having knowledge of the abuse or alternatively, when the victim attains the age of 21 if they were under 18 when the abuse occurred.

The Independent Inquiry into Child Sexual Abuse in England and Wales (the Inquiry) was established in 2015 to carry out a wide-ranging review into historical child sex abuse. In its final report the Inquiry recommended that the UK Government makes changes to legislation in order to ensure: the removal of the three-year limitation period for personal injury claims brought by victims and survivors of child sexual abuse in respect of their abuse; and the express protection of the right to a fair trial, with the burden falling on defendants to show that a fair trial is not possible. These provisions would apply whether or not the current three-year period has already started to run or has expired, except where claims have been dismissed by a court or settled by agreement. They would however, only apply to claims brought by victims and survivors, not claims brought on behalf of victims and survivors' estates. Government intervention would be required as making the required changes would require amending primary legislation.

The previous Government's response to the Inquiry agreed to publish a consultation paper exploring options on how the existing judicial guidance in child sexual abuse cases could be strengthened as well as setting out options for the reform of limitation law in child sexual abuse cases. This Impact Assessment has been updated for the results of the consultation.

**What are the policy objectives of the action or intervention and the intended effects?**

The objective of the consultation was to gather the views of stakeholders and other interested parties regarding the options on a) how the existing judicial guidance in child sexual abuse cases could be strengthened and b) the reform of limitation law in child sexual abuse cases.

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

- **Option 0** – Do Nothing. Make no change to the law of limitation or to judicial guidance
- **Option 1** - Complete removal of the limitation period in child sexual abuse cases
- **Option 2** - Reverse the burden of proof in child sexual abuse cases
- **Option 3** - Codify existing judicial guidance
- **Option 4** - Allow the reopening of claims that have already been adjudicated or settled
- **Option 5** – Extend the definition of abuse (beyond sexual abuse)
- **Option 6** – Adjust the factors in Section 33 of the Limitation Act 1980 in relation to Child Sexual Abuse Cases
- **Option 7** - An extended limitation period for child sexual abuse cases
- **Option 8** - Procedural Reform

Prior to the consultation, options 2 and 3 were the Governments preferred options. However, following the consultation, the Government accepts the overwhelmingly expressed view that the limitation period should be removed for claims brought by victims and survivors of child sexual abuse in respect of their abuse and that the burden of proof should be reversed in child sexual abuse cases so that an action can proceed unless the defendant can satisfy the court that it is not possible for a fair hearing to take place or that they (the defendant) would be substantially prejudiced were the action to proceed. As a result, options 1 and 2 above are now the Government's preferred options.

Is this measure likely to impact on international trade and investment?	No
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Are any of these organisations in scope?	<b>Micro</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> <b>No</b>
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A	
<b>Will the policy be reviewed?</b> The Government will keep a watching brief on any legislative changes and carry out a post legislative review in due course.				

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

Signed by the responsible:

Sarah Sackman KC

MP

Date:

10/1/25

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Complete removal of the limitation period in child sexual abuse cases

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)			
			Low:	High:	Best Estimate: N/A	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low	Optional		Optional		Optional	
High	Optional		Optional		Optional	
Best Estimate	Optional		Optional		Optional	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of this option.						
<b>Other key non-monetised costs by 'main affected groups'</b>						
This option may lead to increased costs as more victims and survivors may bring civil claims for compensation against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. HM Courts and Tribunals Service, the judiciary and the providers of legal services will be impacted if additional cases are brought to court.						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low	Optional		Optional		Optional	
High	Optional		Optional		Optional	
Best Estimate	Optional		Optional		Optional	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised benefits of this option.						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
Evidence received by the Inquiry suggested that limitation acted as a barrier at stages of the litigation process. This option will therefore potentially be beneficial to those groups of victims and survivors by removing those barriers so allowing for them to claim compensation.						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>	N/A
As noted above measuring the scale and nature of child sexual abuse and therefore the total number of victims and survivors is difficult. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes.						

## BUSINESS ASSESSMENT (Option 1)

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

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Reverse the burden of proof in child sexual abuse cases

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: N/A
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Optional		Optional		Optional
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
<p>Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of this option.</p>					
<b>Other key non-monetised costs by 'main affected groups'</b>					
<p>This option will see an action for compensation proceed unless the defendant satisfies the court that it is not possible to have a fair hearing or that he/she (the defendant) would be substantially prejudiced were the action to proceed. It may therefore mean that more victims and survivors are able to bring civil claims against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. HM Courts and Tribunals Service, the judiciary and the providers of legal services will be impacted if there are additional cases brought to court.</p>					
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Optional		Optional		Optional
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
<p>Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised benefits of this option.</p>					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
<p>Evidence received by the Inquiry suggested that limitation acted as a barrier at stages of the litigation process. Allowing action to proceed unless the defendant satisfies the court that it is not possible for a fair hearing to take place or that he/she (the defendant) would be substantially prejudiced were the action to proceed will therefore potentially be beneficial to those groups of victims and survivors who would otherwise not be allowed to bring a claim for damages.</p>					
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>
					N/A
<p>As noted above measuring the scale and nature of child sexual abuse and therefore the total number of victims and survivors is difficult. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes.</p>					

## BUSINESS ASSESSMENT (Option 2)

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

## Summary: Analysis & Evidence

## Policy Option 3

**Description:** Codify existing judicial guidance

### FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)			
			Low:	High:	Best Estimate: N/A	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low	Optional		Optional		<b>Optional</b>	
High	Optional		Optional		<b>Optional</b>	
Best Estimate	Optional		Optional		<b>Optional</b>	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
<p>Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of this option.</p>						
<b>Other key non-monetised costs by 'main affected groups'</b>						
<p>This option may lead to more victims and survivors bringing civil claims for compensation against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. HM Courts and Tribunals Service, the judiciary and the providers of legal services would be impacted if additional cases come to court.</p>						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low	Optional		Optional		<b>Optional</b>	
High	Optional		Optional		<b>Optional</b>	
Best Estimate	Optional		Optional		<b>Optional</b>	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
<p>Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised benefits of this option.</p>						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
<p>Evidence received by the Inquiry suggested that limitation acted as a barrier at stages of the litigation process. This option would see the current guidance provided by the Court of Appeal in <i>Chief Constable of Greater Manchester v Carroll</i> given a statutory footing which would increase the legal force of the guidance and require courts to formally take account of it when considering child sexual abuse cases. It is envisaged that this would provide greater certainty to victims and survivors as well as other parties in child sexual abuse cases.</p>						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>	N/A
<p>As noted above measuring the scale and nature of child sexual abuse and therefore the total number of victims and survivors is difficult. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes.</p>						

### BUSINESS ASSESSMENT (Option 3)

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

# Summary: Analysis & Evidence

# Policy Option 4

**Description:** Allow the reopening of claims that have already been adjudicated or settled

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)			
			Low:	High:	Best Estimate: N/A	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low	Optional		Optional		Optional	
High	Optional		Optional		Optional	
Best Estimate	Optional		Optional		Optional	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
It is likely that some claims that have already been settled will be reopened. However, the data we hold records child sexual abuse claims as personal injury claims. This category includes a broad range of claims other than child sexual abuse claims. Therefore, it is not possible to be definitive about the number of child sexual abuse claims that have already been adjudicated or settled in the civil courts.						
<b>Other key non-monetised costs by 'main affected groups'</b>						
This option may lead victims and survivors who have already settled civil claims related to child sexual abuse to bring those claims for damages back to court. As well as an impact on the court system this would also impact those who they claim have abused them as well as potentially local authorities and other organisations that have run residential schools, organisations that have previously run child migration programmes, religious organisations and settings. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. In addition, HM Courts and Tribunals Service, the judiciary and the providers of legal services would be impacted if there are additional cases brought to court.						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low	Optional		Optional		Optional	
High	Optional		Optional		Optional	
Best Estimate	Optional		Optional		Optional	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
Victims and survivors who have already settled their claim would be able to take advantage of any change made to limitation law or judicial guidance on limitation law to potentially reopen their claims.						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
There is an equity argument to be made for this option. After all victims and survivors in settled and already adjudicated cases will have come across the same barriers as other victims and survivors. Furthermore, it may be argued that victims and survivors with settled claims would have acted differently had limitation law or judicial guidance been different when their claim was made.						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>	N/A
As a result of the stress and trauma which can be caused by child sexual abuse there may be a reluctance amongst claimants who have already settled to reopen their claim. Furthermore, it is likely that many claimants will be content with the settlement reached when their claim was settled. It is therefore reasonable to assume that, if this option is pursued, not all settled claims would be reopened.						

## BUSINESS ASSESSMENT (Option 4)

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

## Summary: Analysis & Evidence

## Policy Option 5

**Description:** Extend the definition of abuse (beyond sexual abuse)

### FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: N/A
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Optional		Optional		Optional
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
<p>Measuring the scale and nature of child abuse, sexual and non-sexual, is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, sexual or non-sexual child abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of this option.</p>					
<b>Other key non-monetised costs by 'main affected groups'</b>					
<p>This option may lead to more victims and survivors being able to bring civil claims for damages as the cohort within scope will be larger than if it were restricted to sexual abuse victims and survivors only. Groups likely to be impacted, apart from victims and survivors, are local authorities and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. HM Courts and Tribunals Service, the judiciary and the providers of legal services would be impacted if there are additional cases brought to court.</p>					
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Optional		Optional		Optional
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
<p>Measuring the scale and nature of child abuse, sexual and non-sexual, is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised benefits of this option.</p>					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
<p>Evidence received by the Inquiry suggested that limitation acted as a barrier at stages of the litigation process. This option may lead to more victims and survivors being able to bring civil claims for damages as the cohort within scope will be larger than if it were restricted to sexual abuse victims and survivors only.</p>					
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate</b>
As noted above measuring the scale and nature of child abuse, sexual and non-sexual, and therefore the total number of victims and survivors is difficult. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, abuse or how many potential victims and survivors may be impacted by these changes.					N/A

### BUSINESS ASSESSMENT (Option 5)

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

## Summary: Analysis & Evidence

## Policy Option 6

**Description:** Adjust the factors in Section 33 of the limitation Act in relation to Child Sexual Abuse Cases

### FULL ECONOMIC ASSESSMENT

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

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

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

Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of this option.

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

This option may lead to more victims and survivors bringing civil claims for damages against those who they claim have abused them as well as potentially against local authorities and other organisations that have run residential schools, organisations that have previously run child migration programmes, religious organisations and settings. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. In addition, HM Courts and Tribunals Service, the judiciary and the providers of legal services would be impacted if there are additional cases brought to court.

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

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

Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised benefits of this option.

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

Evidence received by the Inquiry suggested that limitation acted as a barrier at stages of the litigation process. Victims and Survivors may therefore benefit because these changes would ensure there is a less onerous burden on claimants claiming for child sexual abuse when applying Section 33 factors.

Key assumptions/sensitivities/risks	Discount rate (%)	N/A
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As noted above measuring the scale and nature of child sexual abuse and therefore the total number of victims and survivors is difficult. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes.

### BUSINESS ASSESSMENT (Option 6)

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

## Summary: Analysis & Evidence

## Policy Option 7

**Description:** An extended limitation period for child sexual abuse cases

### FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)			
			Low:	High:	Best Estimate: N/A	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low	Optional		Optional		<b>Optional</b>	
High	Optional		Optional		<b>Optional</b>	
Best Estimate	Optional		Optional		<b>Optional</b>	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of this option.						
<b>Other key non-monetised costs by 'main affected groups'</b>						
This option may lead to more victims and survivors bringing civil claims for damages against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and residential settings, organisations that have previously run child migration programmes, religious organisations and settings. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. HM Courts and Tribunals Service, the judiciary and the providers of legal services would be impacted if there are additional cases brought to court.						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low	Optional		Optional		<b>Optional</b>	
High	Optional		Optional		<b>Optional</b>	
Best Estimate	Optional		Optional		<b>Optional</b>	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised benefits of this option.						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
Evidence received by the Inquiry suggested that limitation acted as a barrier at stages of the litigation process. This option would therefore potentially be beneficial to those groups of victims and survivors who may be impacted by those barriers by allowing an extended period for them to make a claim.						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>	N/A
As noted above measuring the scale and nature of child sexual abuse and therefore the total number of victims and survivors is difficult. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes.						

### BUSINESS ASSESSMENT (Option 7)

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

# Summary: Analysis & Evidence

# Policy Option 8

Description: Procedural Reform

## FULL ECONOMIC ASSESSMENT

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

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

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

Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of this option.

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

This option may lead to more victims and survivors bringing civil claims for damages against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential settings, organisations that have previously run child migration programmes, religious organisations and settings. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. HM Courts and Tribunals Service, the judiciary and the providers of legal services would be impacted if there are additional cases brought to court.

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

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

Measuring the scale and nature of child sexual abuse is difficult because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of this option.

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

This option would potentially be beneficial to victims and survivors as well as defendants by encouraging the early settlement of claims.

Key assumptions/sensitivities/risks	Discount rate (%)	N/A
As noted above measuring the scale and nature of child sexual abuse and therefore the total number of victims and survivors is difficult. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, child sexual abuse or how many potential victims and survivors may be impacted by these changes.		

## BUSINESS ASSESSMENT (Option 8)

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

## Evidence Base

### A. Background

1. Limitation law sets time limits within which a party must bring a claim, or give notice of a claim, to the other party in a legal dispute. The present law on limitation in England and Wales is primarily contained in the Limitation Act 1980 which sets a range of time limits for various types of civil claims for redress or compensation. Child sexual abuse claims are normally treated as personal injury claims and are usually subject to a three-year limitation period. This means that claims must be brought within three years of the abuse happening or the victim having knowledge of the abuse or alternatively, when the victim attains the age of 21 if they were under 18 when the abuse occurred.

### Problem Under Consideration

2. The Independent Inquiry into Child Sexual Abuse in England and Wales ('the Inquiry') was established in 2015 to carry out a wide-ranging review into historical child sex abuse. The Inquiry's remit was wide-ranging and as a statutory inquiry it had the authority to compel witnesses and request any material necessary to investigate where institutions failed to protect children in their care.
3. In its final report, published in 2022, the Inquiry recommended that the UK Government makes the necessary changes to legislation in order to ensure: The removal of the three-year limitation period for personal injury claims brought by victims and survivors of child sexual abuse in respect of their abuse; and the express protection of the right to a fair trial, with the burden falling on defendants to show that a fair trial is not possible. These provisions should apply whether or not the current three-year period has already started to run or has expired, except where claims have been dismissed by a court or settled by agreement. They should, however, only apply to claims brought by victims and survivors, not claims brought on behalf of victims and survivors' estates.
4. In evidence to the Inquiry the then Government recognised that some child sexual abuse claims were rejected because they were outside the standard limitation period. However, it was also recognised that changes to limitation law in child sexual abuse claims may have an impact on other groups and that ultimately the key focus should be on ensuring a fair trial is able to take place protecting the interests of both claimants and defendants.

### Consultation

5. The previous Government agreed to publish a consultation paper exploring options on how the existing judicial guidance in child sexual abuse cases could be strengthened as well as setting out options for the reform of limitation law in child sexual abuse cases. This consultation ran from 15 May 2024 to 10 July 2024. Prior to the consultation, the Government's preferred options were Options 2 and 3.
6. A total of 50 responses were received to the consultation paper. Of these, 15 were from respondents who identified themselves as victims or survivors of child sexual abuse, 19 were from those who identified themselves as being from the legal sector, 4 were from those who identified themselves as being from the insurance sector, 2 identified themselves as representing local government while 10 "others" did not identify themselves as being from any of these groups.
7. The consultation responses overwhelmingly expressed view that the limitation period should be removed for claims brought by victims and survivors of child sexual abuse in respect of their

abuse and that the burden of proof should be reversed in child sexual abuse cases so that an action can proceed unless the defendant can satisfy the court that it is not possible for a fair hearing to take place or that they (the defendant) would be substantially prejudiced were the action to proceed.

8. Following the consultation, options 1 and 2 above are now the current Government's preferred options. This Impact Assessment (IA) has therefore been updated to reflect those responses.

## **B. Policy Rationale and objectives**

### **Policy Rationale**

9. The conventional economic approaches to Government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or there are strong enough failures in existing Government interventions (e.g. waste generated by misdirected rules) where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more vulnerable groups in society).
10. The rationale for consulting on the reform of limitation law in child sexual abuse cases is equity. As set out in our response to the Inquiry, the Government recognises that it might take years, and in many cases decades, for victims and survivors of child sexual abuse to come forward and feel ready to disclose their trauma. We therefore accept the critical issue the Inquiry recommendation on limitation seeks to remedy. The consultation paper set out options for the reform of limitation law in child sexual abuse cases as well as examining how the existing judicial guidance in child sexual abuse cases could be strengthened.

### **Policy Objective**

11. The objective of the consultation was to ensure that any decisions in response to the Inquiry recommendation on limitation were informed by the views of stakeholders and interested parties.

## **C. Affected Stakeholder Groups, Organisations and Sectors**

12. The following groups would be most affected by the options presented in this IA:

- Victims and survivors of child sexual abuse
- Local Authorities
- Religious organisations and settings
- Organisations that have run schools and residential settings for children
- Organisations that have previously run child migration programmes
- Insurance companies
- HM Courts and Tribunals Service
- Judiciary
- Providers of legal services
- Defendants

## D. Description of options considered

13. The following options are discussed in this IA:

- **Option 0** – Do Nothing. Make no change to the law of limitation or to judicial guidance
- **Option 1** - Complete removal of the limitation period in child sexual abuse cases
- **Option 2** - Reverse the burden of proof in child sexual abuse cases
- **Option 3** - Codify existing judicial guidance
- **Option 4** - Allow the reopening of claims that have already been adjudicated or settled
- **Option 5** – Extend the definition of abuse (beyond sexual abuse)
- **Option 6** – Adjust the factors in Section 33 of the limitation Act in relation to Child Sexual Abuse Cases
- **Option 7** - An extended limitation period for child sexual abuse cases
- **Option 8** - Procedural Reform

14. The Government's opening position, ahead of consultation, was that it supported options 2 and 3. These options took account of the exceptional nature of child sexual abuse while respecting the need for finality and certainty. Responses to the consultation have now been taken into account and the Government's final position is to pursue options 1 and 2.

### **Option 0 – Do nothing. Make no change to the law of limitation or to judicial guidance on child sexual abuse cases**

15. This option would maintain the current scope and time limits for limitation law in child sexual abuse cases. However, the Government recognises, as was reinforced by the Inquiry, that it might take years – and in many cases decades – for the victims and survivors of child sexual abuse to come forward and feel ready to disclose their trauma. That is why we accepted the critical issue the Inquiry sought to remedy in calling for reform of limitation law to overcome some of the barriers to justice that are faced by victims and survivors.

### **Option 1 - Complete removal of the limitation period in child sexual abuse cases**

16. This option will fully implement the Inquiry recommendation that the UK government makes the necessary changes to legislation in order to ensure: the removal of the three-year limitation period for personal injury claims brought by victims and survivors of child sexual abuse in respect of their abuse; and the express protection of the right to a fair trial, with the burden falling on defendants to show that a fair trial is not possible. These provisions will apply whether or not the current three-year period has already started to run or has expired, except where claims have been: dismissed by a court; or settled by agreement. They will, however, only apply to claims brought by victims and survivors, not claims brought on behalf of victims and survivors' estates.

### **Option 2 - Reverse the burden of proof in child sexual abuse cases**

17. At present limitation law can operate as a complete procedural defence to a claim of child sexual abuse. If a defendant raises limitation in their defence, then it is incumbent on the claimant to persuade the court to exercise its discretion under section 33 of the Limitation Act to allow their claim to proceed. This option will allow an action to proceed unless the defendant satisfies the Court that it is not possible to have a fair hearing or that he/she (the defendant) would be substantially prejudiced were the action to proceed (thus reversing the normal burden of proof for a claim).

**Option 3 - Codify existing judicial guidance from the Court of Appeal in *Chief Constable of Greater Manchester v Carroll***

18. Section 33 of the Limitation Act provides the court with a wide discretion to disapply the primary limitation period of three years if it is equitable to do so and lists a number of circumstances to which the court is to have regard when reaching its decision.
19. In the *Chief Constable of Greater Manchester v Carroll [2017]* the Court of Appeal handed down guidance on application of Section 33 (see Annex A). This option would have seen that guidance codified on a statutory basis which would have increased the factors courts would be required to consider when hearing applications for an extension of time limits.

**Option 4 - Allow the reopening of claims that have already been adjudicated or settled**

20. If there are to be changes to limitation law or judicial guidance for child sexual abuse cases, then it may be argued that it is only just and equitable that all victims and survivors are allowed to benefit. Under this option claims that have already been adjudicated or settled could have been reopened.
21. Different jurisdictions have taken different approaches on this matter and the Government is mindful that certainty and finality are fundamental aspects of the rule of law.

**Option 5 - Extend the definition of abuse (beyond sexual abuse)**

22. This option would have extended any reforms beyond child sexual abuse to also cover other types of abuse such as physical or emotional abuse.

**Option 6 - Adjust the factors in Section 33 of the Limitation Act in relation to Child Sexual Abuse Cases**

23. Section 33 of the Limitation Act 1980 enables courts to exercise discretion in extending time limits for personal injury claims. This option would have seen a less onerous burden placed on claimants claiming for child sexual abuse when applying Section 33 factors. For example, rather than go into specific details Section 33 would be adjusted so that if child sexual abuse is stated as a reason for delay in bringing a claim the court must accept this as a valid reason without requiring the claimant to give further details to justify why child sexual abuse caused the delay.

**Option 7 - An extended limitation period for child sexual abuse cases**

24. The three-year limitation period for child sexual abuse cases is a relatively recent development with the time limit previously being a fixed six-year period in most cases. The consultation of this option asked whether there should be an extended limitation period for child sexual abuse claims and, if so, what it should be.

**Option 8 - Procedural Reform**

25. There is currently a Pre-action Protocol for Personal Injury Claims, which applies to child sexual abuse claims. It requires a claimant to include sufficient information in the letter of claim for the defendant to assess the merits of the case and its potential value. The defendant is then required to produce a letter of response that admits or denies the claim, with reasons if necessary. Disclosure is also encouraged in order to help clarify or resolve issues in dispute.

26. The consultation on this option asked whether there should be a bespoke pre-action protocol for child sexual abuse claims.

## **E. Cost & Benefit Analysis**

27. This Impact Assessment follows the procedures and criteria set out in the Impact Assessment Guidance and is consistent with the His Majesty's Treasury Green Book.

28. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in Great Britain with the aim of understanding what the overall impact on society might be from the proposals under consideration. IAs place a strong focus on monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.

29. The costs and benefits of the options for each policy area are compared to Option 0, the counterfactual or 'do nothing' option.

30. However, in this instance there are no monetised benefits in this IA. This is because measuring the scale and nature of child sexual abuse is not possible because it is usually hidden from view. Victims often feel unable to report their experiences and adults are not always able to recognise that abuse is taking place. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, sexual abuse as a child or how many potential victims and survivors may be impacted by these changes. Therefore, it is not possible to calculate the monetised costs of the options. As a result, in this IA, only a qualitative assessment is made of the impact of each of the options.

31. The objective of the options considered in this IA would be to make changes in the law to allow victims to recover damages in a wider range of cases. However, there is limited evidence as to levels of damages or how these might change as a result of the options considered, in part because such cases are normally considered as part of the wider personal injury claims category. Finally, any damages would constitute a transfer of resources and so are not normally considered by IAs.

32. In summary, it is not possible to conduct a full appraisal of the options considered in this IA.

33. The numbers of victims and survivors seeking damages in the civil courts is likely to be small as many cases will already have been dealt with in the criminal courts. Furthermore, non-recent abuse perpetrators may be deceased or lack the means to pay adequate compensation, and where organisations may have potential liability, they may no longer exist. However, in such circumstances, it may still be possible for victims and survivors to make a claim to the statutory Criminal Injuries Compensation Scheme.

34. Any impact on Legal Aid funding would be marginal as while victims and survivors may be eligible for legal aid this would only be granted through Exceptional Case Funding.

### **Option 1 - Complete removal of the limitation period in child sexual abuse cases**

#### **Costs of Option 1**

35. This option may lead to more victims and survivors bringing civil claims for compensation against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential facilities, organisations that have

previously run child migration programmes, religious organisations and settings. This option therefore will potentially have an impact on costs for these groups.

36. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. It is likely that insurance companies would seek to pass any additional costs to their customers. The costs of insurance to all organisations is therefore likely to rise in the future under this option.
37. HM Courts and Tribunals Service, the judiciary and providers of legal services will be impacted if additional cases are brought to court. However, as the expected number of cases is likely to be small (see paragraph 33) these impacts are expected to be marginal.

### **Benefits of Option 1**

38. Evidence received by the Inquiry suggested that limitation acted as a barrier at three stages of the litigation process: taking on claims, settlement and value of claims; and trial. This option will therefore potentially be beneficial to those groups of victims and survivors who may be impacted by those barriers making it easier for them to bring a claim and recover compensation.

### **Option 2 - Reverse the burden of proof in child sexual abuse cases**

#### **Costs of Option 2**

39. This option may mean that more victims and survivors are able to bring civil claims for compensation against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings.
40. Insurance companies and their policy holders may also be impacted by the cost of claims made against organisations that they insure. It is likely that insurance companies will seek to pass any additional costs to their customers. The costs of insurance to all organisations is therefore likely to rise in the future under this option.
41. HM Courts and Tribunals Service, the judiciary and providers of legal services will be impacted if additional cases are brought to court. However, as the expected number of cases is likely to be small (see paragraph 33) these impacts are expected to be marginal.

#### **Benefits of Option 2**

42. Evidence received by the Inquiry suggested that limitation acted as a barrier at three stages of the litigation process: taking on claims, settlement and value of claims and trial. Allowing action to proceed unless the defendant satisfies the Court that it is not possible for a fair hearing to take place or that he/she (the defendant) would be substantially prejudiced were the action to proceed will therefore potentially be beneficial to those groups of victims and survivors who may be impacted by those barriers, so allowing them to bring a claim and recover compensation when they might otherwise be discouraged from bringing a claim.

### **Option 3 - Codify existing judicial guidance from the Court of Appeal in *Chief Constable of Greater Manchester v Carroll***

#### **Costs of Option 3**

43. This option may have led to more victims and survivors bringing civil claims for compensation against those who they claim have abused them as well as potentially against local authorities

and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings.

44. Insurance companies and their policy holders might also have been impacted by the cost of claims made against organisations that they insure. It is likely that insurance companies would seek to pass any additional costs to their customers. The costs of insurance to all organisations would therefore have been likely to rise in the future under this option.
45. HM Courts and Tribunals Service, the judiciary and providers of legal services would have been impacted if additional cases were brought to court. However, as the expected number of cases is likely to be small (see paragraph 33) these impacts were expected to be marginal.

### **Benefits of Option 3**

46. Evidence received by the Inquiry suggested that limitation acted as a barrier at stages of the litigation process: taking on claims, settlement and value of claims and trial. This option would have seen the current guidance provided by the Court of Appeal in *Carroll* given a statutory footing which would have increased the legal force of the guidance and require courts to formally take account of it when considering child sexual abuse cases. It was envisaged that this would have provided greater certainty to victims and survivors as well as other parties in child sexual abuse cases when bringing a claim.

### **Option 4 - Allow the reopening of claims that have already been adjudicated or settled**

#### **Costs of Option 4**

47. This option may lead victims and survivors who have already settled civil claims related to child sexual abuse to bring those claims back to court and receive higher compensation. This would have also impacted those who they claim have abused them as well as potentially local authorities and other organisations that have run residential schools, organisations that have previously run child migration programmes, religious organisations and settings.
48. Insurance companies and their policy holders might also have been impacted by the cost of claims made against organisations that they insure. It is likely that insurance companies would have sought to pass any additional costs to their customers. The costs of insurance to all organisations would therefore have been likely to rise in the future under this option.
49. HM Courts and Tribunals Service, the judiciary and providers of legal services would have been impacted if additional cases were brought to court. However, as the expected number of cases is likely to be small (see paragraph 33) these impacts were expected to be marginal.
50. However, as a result of the stress and trauma which can be caused by child sexual abuse there may be a reluctance amongst claimants who have already settled to reopen their claim. Furthermore, it is likely that many claimants will be content with the settlement reached when their claim was settled. It is therefore reasonable to assume that, if this option had been pursued, not all settled claims would be reopened.

#### **Benefits of Option 4**

51. Victims and survivors who have already settled their claim would have been able to take advantage of any change made to limitation law or judicial guidance on limitation law to potentially reopen their claims and have them reconsidered by the Courts.

**Option 5 - Extend the definition of abuse (beyond sexual abuse)****Costs of Option 5**

52. This option might have led to more claims for compensation being brought by victims and survivors against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings.
53. Insurance companies and their policy holders might also have been impacted by the cost of claims made against organisations that they insure. It is likely that insurance companies would have sought to pass any additional costs to their customers. The costs of insurance to all organisations would therefore have been likely to rise in the future. Under this option these costs could have been greater than those for some of the other options in this IA as the potential scope of reform would be greater.
54. HM Courts and Tribunals Service, the judiciary and providers of legal services would have been impacted if additional cases were brought to court. However, as the expected number of cases is likely to be small (see paragraph 33) these impacts were expected to be marginal.

**Benefits of Option 5**

55. Evidence received by the Inquiry suggested that limitation acted as a barrier at three stages of the litigation process: taking on claims, settlement and value of claims and trial. This option might have led to more victims and survivors being able to bring civil claims and recover compensation as the cohort within scope would have been larger than if it were restricted to sexual abuse victims and survivors only.

**Option 6 - Adjust the factors in Section 33 of the limitation Act in relation to Child Sexual Abuse Cases****Costs of Option 6**

56. This option might have led to more victims and survivors bringing civil claims for compensation against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings.
57. Insurance companies and their policy holders might also have been impacted by the cost of claims made against organisations that they insure. It is likely that insurance companies would have sought to pass any additional costs to their customers. The costs of insurance to all organisations would therefore have been likely to rise in the future.
58. HM Courts and Tribunals Service, the judiciary and providers of legal services would have been impacted if additional cases were brought to court. However, as the expected number of cases is likely to be small (see paragraph 33) these impacts were expected to be marginal.

**Benefits of Option 6**

59. Evidence received by the Inquiry suggested that limitation acted as a barrier at three stages of the litigation process: taking on claims, settlement and value of claims and trial. Victims and Survivors may therefore have benefited because these changes would ensure there is a less onerous burden on claimants claiming for child sexual abuse when applying Section 33 factors.

**Option 7 – An extended limitation period for child sexual abuse cases****Costs of Option 7**

60. This option might have led to more victims and survivors bringing civil claims for compensation against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential facilities, organisations that have previously run child migration programmes, religious organisations and settings.
61. Insurance companies and their policy holders might also have been impacted by the cost of claims made against organisations that they insure. It is likely that insurance companies would have sought to pass any additional costs to their customers. The costs of insurance to all organisations would therefore have been likely to rise in the future.
62. HM Courts and Tribunals Service, the judiciary and providers of legal services would have been impacted if additional cases are brought to court. However, as the expected number of cases is likely to be small (see paragraph 33) these impacts were expected to be marginal.

**Benefits of Option 7**

63. Evidence received by the Inquiry suggested that limitation acted as a barrier at three stages of the litigation process: Taking on claims, Settlement and value of claims and Trial. This option would therefore have been potentially beneficial to those groups of victims and survivors who may be impacted by those barriers by allowing an extended period for them to make a claim.

**Option 8 - Procedural Reform****Costs of Option 8**

64. This option might have led to more victims and survivors bringing civil claims for compensation against those who they claim have abused them as well as potentially against local authorities and other organisations that have run schools and other residential settings, organisations that have previously run child migration programmes, religious organisations and settings.
65. Insurance companies and their policy holders might also have been impacted by the cost of claims made against organisations that they insure. It is likely that insurance companies would seek to pass any additional costs to their customers. The costs of insurance to all organisations would therefore have been likely to rise in the future.
66. HM Courts and Tribunals Service, the judiciary and providers of legal services would have been impacted if additional cases are brought to court. However, as the expected number of cases is likely to be small (see paragraph 33) these impacts were expected to be marginal.

**Benefits of Option 8**

67. This option would have potentially been beneficial to victims and survivors as well as defendants by encouraging the early settlement of claims. If this happened, then this would have positively impacted claimants and potential defendants.
68. HM Courts and Tribunals Service and the judiciary would have benefited from a reduction in the number of cases brought to trial if the rates of early settlement were to increase.

## **F. Assumptions & Risks**

69. Measuring the scale and nature of child sexual abuse and therefore the total number of victims and survivors is difficult. As a result, there is no data available to represent the full scale of the issue. We therefore do not know how many people are currently experiencing, or have experienced, sexual abuse or how many potential victims and survivors may be impacted by these changes.

## **G. Wider Impacts**

### **Equalities**

70. An Equality Impact Statement has been completed and will be published alongside this Impact Assessment.

### **Better Regulation**

71. These proposals are out of scope of the Better Regulation Framework.

### **Environmental Impact**

72. There is no direct environmental impact from the policy options presented in this IA.

### **International Trade**

73. No impacts on international trade are expected from the options presented in this IA.

## **H. Monitoring & Evaluation**

74. The Government will keep a watching brief on any legislative changes and carry out a post legislative review in due course.

## ANNEX A

This annex provides further detail of the judgement in the case of *Chief Constable of Greater Manchester v Carroll* which forms the basis for Option 3 in this Impact Assessment.

The guidance handed down by the Court of Appeal in this case stated that:

- Section 33 of the Limitation Act is not confined to a "residual class of cases". It is unfettered and requires the judge to look at the matter broadly.
- The matters specified in section 33(3) are not intended to place a fetter on the discretion given by section 33(1), as is made plain by the opening words "the court shall have regard to all the circumstances of the case", but to focus the attention of the court on matters which past experience has shown are likely to call for evaluation in the exercise of the discretion and must be taken into a consideration by the judge.
- The essence of the proper exercise of the judicial discretion under section 33 is that the test is a balance of prejudice and the burden is on the claimant to show that his or her prejudice would outweigh that to the defendant. Refusing to exercise the discretion in favour of a claimant who brings the claim outside the primary limitation period will necessarily prejudice the claimant, who thereby loses the chance of establishing the claim.
- The burden on the claimant under section 33 is not necessarily a heavy one. How heavy or easy it is for the claimant to discharge the burden will depend on the facts of the particular case.
- Furthermore, while the ultimate burden is on a claimant to show that it would be inequitable to disapply the statute, the evidential burden of showing that the evidence adduced, or likely to be adduced, by the defendant is, or is likely to be, less cogent because of the delay is on the defendant. If relevant or potentially relevant documentation has been destroyed or lost by the defendant irresponsibly, that is a factor which may weigh against the defendant:
- The prospects of a fair trial are important. The Limitation Acts are designed to protect defendants from the injustice of having to fight stale claims, especially when any witnesses the defendant might have been able to rely on are not available or have no recollection and there are no documents to assist the court in deciding what was done or not done and why. It is, therefore, particularly relevant whether, and to what extent, the defendant's ability to defend the claim has been prejudiced by the lapse of time because of the absence of relevant witnesses and documents.
- Subject to considerations of proportionality (as outlined below), the defendant only deserves to have the obligation to pay due damages removed if the passage of time has significantly diminished the opportunity to defend the claim on liability or amount.
- It is the period after the expiry of the limitation period which is referred to in sub-sections 33(3)(a) and (b) and carries particular weight. The court may also, however,

have regard to the period of delay from the time at which section 14(2) was satisfied until the claim was first notified. The disappearance of evidence and the loss of cogency of evidence even before the limitation clock starts to tick is also relevant, although to a lesser degree.

- The reason for delay is relevant and may affect the balancing exercise. If it has arisen for an excusable reason, it may be fair and just that the action should proceed despite some unfairness to the defendant due to the delay. If, on the other hand, the reasons for the delay or its length are not good ones, that may tip the balance in the other direction. It is considered that the latter may be better expressed by saying that, if there are no good reasons for the delay or its length, there is nothing to qualify or temper the prejudice which has been caused to the defendant by the effect of the delay on the defendant's ability to defend the claim.
- Delay caused by the conduct of the claimant's advisers rather than by the claimant may be excusable in this context.
- In the context of reasons for delay, it is relevant to consider under sub-section 33(3)(a) whether knowledge or information was reasonably suppressed by the claimant which, if not suppressed, would have led to the proceedings being issued earlier, even though the explanation is irrelevant for meeting the objective standard or test in section 14(2) and (3) and so insufficient to prevent the commencement of the limitation period.
- Proportionality is material to the exercise of the discretion. In that context, it may be relevant that the claim has only a thin prospect of success, that the claim is modest in financial terms so as to give rise to disproportionate legal costs, that the claimant would have a clear case against his or her solicitors, and, in a personal injury case, the extent and degree of damage to the claimant's health, enjoyment of life and employability.
- An appeal court will only interfere with the exercise of the judge's discretion under section 33, as in other cases of judicial discretion, where the judge has made an error of principle, such as taking into account irrelevant matters or failing to take into account relevant matters, or has made a decision which is wrong, that is to say the judge has exceeded the generous ambit within which a reasonable disagreement is possible.