

EXPLANATORY MEMORANDUM TO
THE DOMESTIC ABUSE ACT 2021 (AMENDMENT) REGULATIONS 2024

2024 No. 421

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

- 2.1 Minister Laura Farris, Minister for Victims and Safeguarding at the Home Office confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Charlotte Breen, Deputy Director for the Interpersonal Abuse Unit, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Tim Charlton at the Home Office email: VAWGImplementation@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This instrument amends section 15(3) of the Domestic Abuse Act 2021 ('the Act') by adding the Independent Office for Police Conduct ("the IOPC") to the list of specified public authorities. Under section 15(3), the specific public authorities can be requested to co-operate with the Domestic Abuse Commissioner ("the Commissioner") in any way that the Commissioner considers necessary for the purposes of the Commissioner's functions (pursuant to section 15(1) of the Act).
- 4.2 The inclusion of the IOPC under section 15(3) was debated during the passage of the Act. It was decided the matter would be re-visited after consulting with the IOPC and Commissioner. There are no concerns regarding IOPC's compliance with the DAC, however adding the IOPC under section 15(3) will enshrine that co-operation and bring it in line with other relevant policing bodies subject to this duty. This enables the Commissioner to fulfil their functions to raise public awareness and hold agencies to account on their work on domestic abuse.

Where does the legislation extend to, and apply?

- 4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

- 5.1 Section 15 of the Domestic Abuse Act 2021 places a duty on specified public authorities to co-operate with the Commissioner.
- 5.2 Subsection (1) of s.15 enables the Commissioner to request a specific public authority (as listed in subsection (3), read with the definitions in subsection (7)) to co-operate with them, and subsection (2) requires that body to comply with such a request where it is reasonably practicable to do so. The duty to co-operate could include, for example, responding to requests for information from the Commissioner in pursuance of their general function of assessing and monitoring the provision of services to victims of domestic abuse.
- 5.3 Currently the IOPC is not subject to the duty, which is out of step with other relevant policing bodies. Adding the IOPC to section 15(3) will enable the Commissioner to work with the IOPC in order to fulfil the Commissioner's functions and powers set out in the Act, as summarised in the Explanatory Notes to the Act¹. The Commissioner uses her statutory powers to raise public awareness, encourage good practice in the prevention of domestic abuse, provision of services for victims, and hold agencies and government to account in tackling domestic abuse. The definition of domestic abuse is set out in Part 1 of the Act. The duty to co-operate placed on the IOPC will be the same as the duty already in place for a range of public authorities listed under section 15(3), including Chief Constables in police forces in England and Wales.
- 5.4 Adding the IOPC to section 15(3) demonstrates the Government's commitment to implementing the Act. This creates a link between the Commissioner and the IOPC, specifically by strengthening the means through which the Commissioner can fulfil her statutory duties for victims and survivors, monitor the response of statutory agencies and hold them to account in tackling domestic abuse. This amendment will also ensure that all relevant policing and police-related bodies are captured, to account for the future priorities of any Commissioner.

What was the previous policy, how is this different?

- 5.5 Previously, the IOPC was not listed as a specified public authority under section 15(3) of the Domestic Abuse Act 2021. As a result, the duty set out in the Act to co-operate with any request made by the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner's functions (pursuant to section 15(1) of the Act) did not apply.
- 5.6 Amending the Act to add the IOPC to the list of specified public authorities (under section 15(3) of the Act) will require the IOPC, as far as reasonably practicable, to comply with such a request made by the Commissioner.

6. Legislative and Legal Context

How has the law changed?

- 6.1 This is a straightforward amendment insofar as it seeks to add a public body to existing legislation (the Domestic Abuse Act 2021), meaning no new concepts are being introduced. The Act was passed in April 2021 and included further measures to

¹ <https://www.legislation.gov.uk/ukpga/2021/17/notes/division/6/index.htm>

support victims of crime and tackle perpetrators. The instrument will come into force on 16 April 2024.

Why was this approach taken to change the law?

- 6.2 The Act contains a convenient mechanism to enable a public authority to be added to the list as a ‘specified public authority’ in s.15(3) which means it is under a duty to comply, so far as is reasonably practicable, with a request from the Commissioner to cooperate in order to assist her in fulfilling her functions under the Act. An alternative of setting out this arrangement in statutory guidance was not feasible and would not achieve the same effect.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 A formal consultation was not undertaken due to the minimal impact of the amendment. Section 15(5) of the Act requires the Secretary of State to consult with the Commissioner before making regulations that change the list in s.15(3) of the Act. The IOPC and Commissioner were consulted prior to developing this instrument and are supportive of this change. Adding the IOPC to section 15(3) of the Act was considered during the passage of the Act. It was judged that it was not an appropriate time to include the IOPC under section 15(3) and it would be reconsidered in future. It was considered necessary to allow more time for the IOPC to prepare for any changes as a result of this amendment. Subsequent engagement with the IOPC and Commissioner showed that significant changes, such as updating training, were not required as a result of this amendment.

8. Applicable Guidance

- 8.1 Not applicable.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or public sector is foreseen. This instrument does not introduce any substantive policy changes. An Impact Assessment was prepared for the Act and covered the impact of the powers within the Act.²

Impact on businesses, charities and voluntary bodies

- 9.2 There is no impact on business, charities or voluntary bodies because this instrument only places a direct duty on the IOPC to co-operate with any requests made by the Commissioner.
- 9.3 The instrument does not impact small or micro businesses.

² Published on Gov.uk:
https://assets.publishing.service.gov.uk/media/6102c683d3bf7f0448719e5d/DA_Act_2021_Impact_Assessment.pdf

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 This instrument will not require further review itself. Review of the duty in s.15 and the list of specified public authorities on whom that duty is imposed will take place as part of the Post Implementation of the entire Act by May 2026.
- 10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 There are no matters of special interest to Parliament arising from this instrument.

12. European Convention on Human Rights

- 12.1 The Minister for Victims and Safeguarding has made the following statement regarding Human Rights:
- 12.2 “In my view the provisions of The Domestic Abuse Act 2021 (Amendment) Regulations 2024 are compatible with the Convention rights.”

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).