

Title: Terrorist Offenders (Restriction of Early Release) Bill
IA No: MoJ053/2020

RPC Reference No: N/A

Lead department or agency: Ministry of Justice

Other departments or agencies: Home Office

Impact Assessment (IA)

Date: 05/02/2020

Stage: Final

Source of intervention: Domestic

Type of measure: Primary legislation

Contact for enquiries:
rory.mcerlean@justice.gov.uk

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option (in 2016 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£19.3m	N/A	N/A	N/A

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

The incidents at Fishmongers' Hall on 30 November 2019 and in Streatham on 2 February 2020 show that we are facing an unpredictable risk to public safety from known terrorist offenders being released by automatic process of law, halfway through their sentence, without a risk assessment linked to the power to keep them detained if they cannot be safely managed in the community. Government intervention is necessary to keep the public safe and changing release rules requires primary legislation.

What are the policy objectives and the intended effects?

The policy objective is to end automatic early release of terrorist offenders, and require them to be subject to formal review and risk assessment by the Parole Board and released before the end of their sentence only if the Board deems it safe to do so. It is also to extend the amount of time terrorist offenders serving custodial sentences spend in custody to a minimum of two-thirds of their current sentence. This will have the effect of providing greater protection to the public and providing greater public confidence in sentencing and the administration of justice.

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

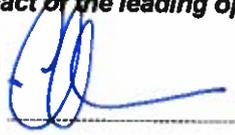
- Option 0: do nothing.
- Option 1: legislate to change the earliest point of release for all terrorist offenders to two-thirds and end automatic release before the end of sentence by requiring Parole Board determination for release.

The Government's preferred option is option 1 as this best meets the policy objectives. Changing the earliest point of release from midway to two-thirds and ending automatic release before the end of sentences will provide greater public protection and reassurance.

Will the policy be reviewed? The Bill will be subject to a post-legislative review in the normal way to determine whether is legislation is working in practice as intended. **If applicable, set review date:** 2023-2025

Does implementation go beyond minimum EU requirements?	NA			
Is this measure likely to impact on international trade and investment?	NA			
Are any of these organisations in scope?	Micro NA	Small NA	Medium NA	Large NA
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: NA		Non-traded: NA	

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

Signed by the responsible SELECT SIGNATORY: 

Date: 10/02/2020

Summary: Analysis & Evidence

Policy Option 1

Description: Legislate to change the earliest point of release for all terrorist offenders to two-thirds and end automatic release before the end of sentence by requiring Parole Board determination for release.

FULL ECONOMIC ASSESSMENT

Price Base Year 2019/20	PV Base Year 2019/20	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Negligible	High: £-50.3m	Best Estimate: -£37.3m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Negligible	Negligible	Negligible
High	£25.0m	£2.4m	£77.2m
Best Estimate	£18.3m	£1.8m	£38.6m

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

Under this option, both current and future offenders serving fixed term custodial sentences for a relevant terrorism offence would no longer be released half-way automatically. This would lead to fewer than 100 additional prisoners at a cost of about £1.8m annually in a steady state. At the same time, the introduction of discretionary release at the two thirds point for these offenders would lead to increased workload for the parole system and Legal Aid Services of fewer than 50 newly eligible offenders a year, with a combined cost of less than £0.1m annually. The scale of these costs are highly uncertain as it depends on future terrorism crimes committed and sentencing behaviour. Transition costs of £18.3m reflect the estimated need for prison build to house offenders in custody for longer.

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

A later release date and reduced (or no) licence period could disrupt offenders' and family relationships and reduce opportunities for rehabilitation in the community, this would be more severe for young offenders and children convicted of terrorist offences. Additionally, there is a risk of prisoner frustration, disengagement or unrest at changing release arrangements, though there is little evidence to support how prisoners will actually react, and reaction is likely to vary from prisoner to prisoner. There will be a need to provide Offender Management in Custody to adults for longer, which may require an adjustment to the resources required in custody.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	Negligible	Negligible
High	N/A	£0.1m	£1.5m
Best Estimate	N/A	£0.1m	£1.2m

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

There will be a small benefit from the reduction in the volume of terrorist offenders being supervised on licence and the length of time offenders are supervised, from remaining in custody longer, to the National Probation Service. We estimate there will be less than 50 fewer offenders on licence a year, with an average annual benefit of about £0.1m

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

Ensuring all terrorist offenders are reviewed by the Parole Board before any early release could lead to greater public protection and confidence in the CJS. Similarly the introduction of parole reviews before release will allow victims to make a Victim Personal Statement (VPS) to the Parole Board when the release of terrorist offenders is under consideration, which may help improve victim confidence in the system. Furthermore, discretionary release could incentivise offenders to engage with rehabilitative programmes.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

- 1) The estimated impacts of this option are based on observed sentencing volumes; future volumes may vary meaning these impacts could be higher or lower and we have attempted to factor this in our scenarios.
- 2) Probation and Prison costs are based on averages and actual costs will vary depending on the needs and risks of the offender. As this option relates to a specific group of high risk offenders these could be underestimates.
- 3) An 'optimism bias has been built into all estimated impacts (costs and benefits), as is standard practice in IAs.

BUSINESS ASSESSMENT (Option 1)

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

Evidence Base

A. Background

1. The terrorism incidents at Fishmongers' Hall on 30 November 2019 and in Streatham on 2 February 2020 highlight an unpredictable risk to public safety from known terrorist offenders being released early from custody, by automatic process of law, without a risk assessment or the ability to keep them detained if they cannot be safely managed in the community.
2. Volumes of longer term (two year plus) sentences in Scotland are relatively low in comparison to those of England and Wales and have not been included in the modelling. Terrorism-related offences are less common in Scotland – and as a result, there have only been five convictions of two years or more in the past decade, although three of these five convictions have occurred over the two most recent financial years¹. Note that this only include convictions that can be identified as being directly related to terrorism – there are some types of potential terrorism-related convictions that cannot distinguished from non-terrorism convictions in the data sources available.
3. Of this cohort, 41 were convicted and sentenced to custody for terrorism offences and 3 for terrorism related offences. The most common offences were 8 convictions for collection of information useful for an act of terrorism and 7 convictions for dissemination of terrorist publications. Other important volumes were 6 convictions each for membership in a proscribed organisation, fundraising, and preparation for acts of terrorism².
4. Terrorist offenders serving standard determinate sentences (SDS) must be released automatically after serving half their sentence. There may also be prisoners serving extended sentences (EDS's) imposed before 13 April 2015 who would be subject to automatic release at the 2/3rds point, some other sentences where the repealed Criminal Justice Act 1991 release provisions still apply subject to Parole Board release at the half way point and automatic release at the two thirds point and some legacy repealed extended sentence provisions where, depending on the date of imposition of the sentence, there is Parole Board or automatic release at the halfway point, and terrorist offenders serving sentences for offenders of particular concern (SOPCs) who may be released from the halfway point at the discretion of the Parole Board.
5. As at 30 September 2019, there were 224 already terrorist offenders in prison serving custodial sentences, with 88 prisoners serving sentences within scope of the proposed legislation³. Between April and June 2019, 18 terrorist prisoners had been released from custody, 3 had served a sentence of 12 months to less than 4 years, and a further 8 had served 4 years or more. One had been serving a life sentence⁴.
6. There is an insufficient number of offenders released each year to reliably estimate the level of reoffending risk for this cohort. Whilst less frequent compared to other offences, terrorism offences can pose a high risk of harm to the public, more likely involving death, the possibility of death or serious injuries to multiple victims.
7. The proposed legislation would mean that the earliest point at which any terrorist offenders serving any of the above sentences or in the future sentenced to an SDS or SOPC will now be considered for release will be once they have served two-thirds of their sentence. Prisoners will then be assessed by the Parole Board, and only released before the end of their custodial term, if the Board deems it is safe to do so.

¹ Scottish Prison Service analysis done for the Scottish Government, 2020

² Home Office, Operation of Police Powers under the Terrorism Act 2000, quarterly update to September 2019, Annual Tables, Table C.03 <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-september-2019>

³ Home Office, Operation of Police Powers under the Terrorism Act 2000, quarterly update to September 2019, Annual Tables, Table P.01 <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-september-2019>

⁴ The remaining releases had not been sentenced (see notes to table referenced in footnote 3)

B. Policy Rationale and Objectives

8. The conventional economic approach to government intervention is based on efficiency and equity arguments. The government may consider intervening if there are failures in the way markets operate (e.g. monopolies overcharging consumers) or there are failures with existing government interventions (e.g. waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and re-distributional reasons (e.g. to reallocate goods and services to groups in society in more need).
9. In this case, however, the primary rationale and the associated policy objectives for the options assessed in this Impact Assessment (IA) are to improve public protection and public confidence in the administration of justice, by requiring terrorist offenders to serve a greater proportion of their sentence in custody and ending early automatic release.

C. Affected Stakeholder Groups, Organisations and Sectors

10. The following groups will be most affected by the options considered in this IA:

- HM Prison and Probation Service (HMPPS) - manage the adult prison population, including longer periods in prison for terrorist offenders, and will need to input to prisoners' parole reviews.
 - Youth Custody Service - manage the youth custodial population and may need to input to prisoners' parole reviews.
 - HMPPS Public Protection Casework Section (PPCS) - manage the parole process and could require additional staff to deal with the additional workload.
 - The Parole Board for England and Wales - required to carry out reviews of all terrorist offenders before early release.
 - The National Probation Service – manage offenders on licence for the remainder of their sentence if released early and would also be involved in the parole process, along with Victim Liaison Officers (VLOs) who provide information and support to victims.
 - Local Authorities, including Youth Offending Teams (YOTs) – provide accommodation services and manage young people in the community following a custodial sentence. YOTs also advise on sentencing decisions at court.
 - The Legal Aid Agency (LAA) – could be required to pay for legal representation and the additional costs associated with the parole review hearings and also any judicial reviews for eligible offenders
 - Prison lawyers – could be representing standard determinate offenders in the parole process
 - Offenders and their families – could be affected by longer time spent in custody
 - Victims - could now have a voice in the release of terrorist offenders
 - Public
11. HMPPS includes adult prisons, the Youth Custody Service (YCS), the National Probation Service (NPS), and Community Rehabilitation Companies (CRCs) providing probation services on behalf of the Ministry of Justice. Existing CRC contracts will require an amendment to accommodate any change of service, while they remain in place. Following their termination, the NPS will take over all supervision of offenders on licence, under probation reforms announced in May 2019. Youth will continue to be managed in the community post release by local Youth Offending Teams.

D. Description of Options Considered

12. To meet the policy objectives, the following options are assessed in this IA:

- **Option 0: Do nothing:** Make no changes to the time spent in prison or automatic release
- **Option 1: Legislate to change the earliest point of release for all terrorist offenders to two-thirds and end automatic release before the end of sentence by requiring Parole Board determination for release.**

13. The preferred option is Option 1 as it best supports the policy objectives.

Option 0: Do nothing

14. Under option 0, it is assumed that current release policy would remain unchanged. Terrorist offenders on Standard Determinate Sentences (SDS) would continue to be automatically released at the half-way point of their sentence without a Parole Board hearing. Those serving a custodial sentence for certain offenders of particular concern (SOPC) will continue to be eligible for release, at Parole Board discretion, from the half-way point. And there will remain some prisoners serving legacy sentences (under former statutory release provisions) which have an automatic release point before the end of their custodial term or are eligible for Parole Board release at the half way point.

Option 1: Legislate to change the earliest point of release for all terrorist offenders to two-thirds and end automatic release before the end of sentence by requiring Parole Board determination for release.

15. This option would end automatic release before the end of a custodial term for terrorist offenders sentenced to less than life in prison for a relevant terrorism offence. They would then become eligible for release at the two-thirds point of their sentence at the discretion of the independent Parole Board.
16. The earliest point of release for terrorist offenders should be two-thirds for any type of sentence, so those sentenced to or serving a standard determinate sentence or SOPC or other 'legacy' sentences will no longer be eligible for release from halfway. This option would apply to terrorist and terrorist-related offences where the minimum penalty is above 2 years, thereby excluding only the most minor offences.
17. For youth offenders, this option would apply to sentences imposed on terrorist offenders under section 91 of the Powers of Criminal Courts Sentencing Act 2000 but not to Detention and Training Orders.
18. Our assumed implementation date for this option is 28 February 2020.

E. Cost and Benefit Analysis

19. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
20. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England, Wales and Scotland 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. These might be impacts on certain groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted broadly, to include both monetised and non-monetised costs and benefits, with due weight given to those that are not monetised.
21. The costs and benefits of each proposal are compared to option 0, the counterfactual or "do nothing" scenario. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).

22. There is significant uncertainty around the future volume of terrorism offences coming before the courts and sentencing decision. Given the potential uncertainty or other changes demand, the impacts of Option 1 are presented under 3 scenarios:
- **Low:** Based on the sentencing of historic volumes, it is assumed that future terrorism offence volumes will be in line with the lowest levels in the historic data. Costs for the low scenario are not included as impacts have been estimated to be very small so as to be negligible.
 - **Central:** Based on the sentencing of historic cases and there will be a similar volume of terrorism offences as seen in within the past 3 years.
 - **High:** Based on the sentencing of historic volumes, it is assumed that future terrorism offences volumes will be in line with the highest level in the historic data observed in the last 3 years.
23. The annual costs and benefits are presented in steady state throughout this IA. All estimates, unless stated otherwise, are annualised figures in 2019-20 prices rounded to nearest £100k.
24. Unless otherwise stated, at 20% optimism bias has been applied to all impacts (costs and benefits).
25. The issues and risks associated with these – and other – assumptions are detailed in section F.

Option 1: Legislate to change the earliest point of release for all terrorist offenders to two-thirds and end automatic release before the end of sentence by requiring Parole Board determination for release.

Costs of Option 1

Monetised costs

Prison Services

26. We estimate an increase in the prison population of less than 100 terrorist offenders. This reflects longer time spent in custody for both current prisoners and future offenders sentenced to custody for a relevant terrorist offence. Any additional prison place as a result of a population increase will incur an annual running cost of £63,447^{5,6}. This is the average cost of providing a prison place for a year based on overall resource expenditure for a male dispersal (i.e. a Category A) prison and includes staffing and estate costs. It does not cover contracted out costs or capital or additional rehabilitative activities rolled out. If the increase in the prison population could be accommodated in the existing estate, then the additional running costs could be lower. Running costs may be higher or lower depending on the specific estate required to accommodate the additional caseload and the specific needs of offenders.
27. Under our central scenario, the impact on the prison population is estimated to be less than 100 additional places and the annual prison running costs for the additional prison places to be £1.8m. For the low and high scenarios, the estimated annual costs would range from so small as to be negligible and £2.4m respectively. These costs will fall on HMPPS.
28. A range of factors currently in train, such as the recruitment of 20,000 police officers, can have substantial impacts of overall prison population. It is assumed that the increase in the prison population arising under any proposed policy, including the range of scenarios considered in this Impact Assessment, will require the construction of additional prison capacity through prison building.

⁵ In 2018/19 prices, this was converted to 19-20 prices for this analysis.

⁶ Ministry of Justice, Prison performance statistics 2018 to 2019. <https://www.gov.uk/government/statistics/prison-performance-ratings-2018-to-2019>

29. New capacity can be provided in a number of ways, though construction costs are based on the cost per place representing new build, and is based on the nominal costs of each project, using a modelled profile of build. Costs will vary depending on the type of prison being built.
30. Any associated construction costs for this measure in isolation are estimated to be around/less than £18.3m to accommodate the increased prison population estimated under the central scenario in the steady state. These are treated as transition costs in this IA. For the low scenario, no additional prison capacity would be required as the increase would be negligible. However for the high scenario the additional build cost associated with the increase would be £25.0m. These are assumed to apply as a one off cost in the first year. However, in practice the incidence of costs associated with building new capacity is largely stepped (and based on overall demand and supply positions in the round). For this reason, we work across Government to ensure that we are funded to provide capacity as it is forecast to be needed.
31. Youth offenders convicted of terrorism offences have been considered as part of our estimates. Any impact on the youth custodial estate will be negligible as any additional time youth offenders spend in custody will likely be served in the adult estate.

Parole Board

32. Under this option, terrorist offenders will be eligible for discretionary early release following a parole review. We estimate there will be fewer than 50 additional offenders eligible for parole each year. The additional workload for the Parole Board will be carried out largely within the current resources available (in the context of c25,000 parole decisions currently taken each year, an increase of fewer than 50 cases does not represent a significant increase) although there may be some additional costs likely to be substantially less than £0.1m annually.
33. There may be additional costs in training Parole Board members that may require additional staff time and the Board may seek to increase its cohort of specialist members trained and cleared to deal with terrorism and extremism cases.
34. Based on the expected number of additional cases and current costs of processing parole cases, it is estimated that Parole Board costs and associated Legal Aid Services costs, when taken together, should not surpass £0.1m annually.
35. These are the estimated immediate direct costs of the emergency legislation on parole and legal aid but there may be wider and/or longer term impacts on the parole system associated with this shift in approach, with more cases being directed to the Parole Board to consider release. In addition, it should be noted the estimates have been based on the existing costs of parole hearings generally, but terrorism cases in particular are likely to be complex and challenging – for example, may involve the assessment of sensitive material and special arrangements to deal with that. For that reason, the costs of handling these cases may be higher than other types of cases – but it is not possible to estimate that.

Legal aid services

36. Prisoners going through the parole process may be entitled to Legal Aid to pay for legal representation. There is some uncertainty around the volume of cases that will be heard and whether they will have both a paper review and an oral hearing (both stages of the process). The estimated impact on legal aid where prisoners who are legally aided submit applications via their legal representative for paper and oral hearings is estimated to be less than £0.1m a year from the legal aid budget.
37. It should be noted that Parole Board costs and associated Legal Aid Services costs, when taken together, should not surpass £0.1m annually.

Non-monetised costs

Parole Board

38. A small number of Parole Board decisions will be requested for reconsideration, either on the part of the Secretary of State for Justice or affected prisoners. There is some uncertainty around the volume of cases that will be reconsidered, though it is expected to be so small as to be of negligible impact.

Legal aid services

39. A small number of Parole Board decisions will be requested for reconsideration, and prisoners going through the reconsideration process may be entitled to Legal Aid to pay for representation. There is some uncertainty around the volume of cases that will be reconsidered, though it is expected to be so small as to be of negligible impact.

Offenders and their families

40. There will be potential wider impacts of this option that it has not been possible to quantify due to the limited evidence of the impact of longer prison terms on terrorist offenders. There is some evidence that indicates that prisoners in custody for longer come to terms with their offending and are able later in their sentence to begin constructive activities⁷. However, research also shows that serving a life sentence can be a risk factor linked to an increased risk of self-harm while in prison (as well as being on remand/unsentenced)⁸.
41. Offenders remaining in custody for longer could have a negative impact on their families as they will be apart for longer. Living with immediate family post-release appears to be a protective factor against reoffending⁹; being in prison for longer periods could increase the risk of relationship breakdown thereby removing this protective factor and increasing the risk of reoffending.
42. Offenders affected by this policy will serve a shorter period on licence to support their transition into the community and in some cases, have no licence period. It is unknown how this will impact upon successful reintegration into society, but there is a risk that this could increase demand on prisons to provide offending behaviour interventions while in custody and reduce the probation capacity to provide the full range of rehabilitative services. This in turn could impact on the likelihood of the affected offenders reoffending.
43. The change created by this option, especially the immediate increased time spent in custody and uncertainty around the point of release, could also risk increases in disengagement, frustration and prisoner unrest in custody during the transitional period between current and future arrangements. On the other hand, knowing that their early release depends on demonstrating that their risk has reduced might lead some prisoners to be more co-operative and engaged than they might have been hitherto. There is limited evidence to make an assessment of what is likely to happen. However, prisons already hold prisoners subject to a range of different release arrangements, including those whose release point is indeterminate. The Prison Service as part of the daily operations manage a range of risks posed by the prison population; any risk of disengagement or frustration is therefore assumed to be manageable, given there are ongoing, and historical tensions between sentencing and release provisions which continue to be managed to this day.

Benefits of Option 1

Monetised benefits

Probation

44. Terrorist offenders sentenced to or serving an SDS or SOPC will be in prison for longer under this option. The additional time that they are in prison is time that they would otherwise have been on licence in the community. However, fewer than 50 additional offenders would become eligible for Parole Board consideration annually under the option, with an estimated 80% fewer to be released annually. There is negligible monetary benefit from the shorter licence length being served by those being released via the Parole Board, this is because probation costs are highest in the early stages of the licence period. Those not released via Parole Board, which is estimated to be around 80% of

⁷ <https://www.compen.crim.cam.ac.uk/PDFs/SwimmingwiththeTideAdaptingtoLongTermImprisonment.pdf>

⁸ <https://www.gov.uk/government/publications/self-harm-by-adult-men-in-prison-a-rapid-evidence-assessment>

⁹ <https://www.gov.uk/government/publications/results-from-the-surveying-prisoner-crime-reduction-survey>

terrorist offenders, will now be released at the end of their original sentence. For terrorist offenders on a Standard Determinate Sentence, this means they will no longer have any licence period as their sentence has been fully served in custody. We estimate that less than 50 fewer terrorist offenders will be on licence each year under the policy with an estimated saving of around £0.1m annually.

45. The actual budget position of the National Probation Service could be different than estimated as probation services are currently undergoing a programme of reforms, and the high risk nature of offenders affected by the proposed legislation may increase the depth of supervision for those who remain on licence thereby increasing costs.

Non-monetised benefits

Public protection and public confidence

46. Holding terrorist offenders in custody until at least the two-thirds point will ensure victims and the wider public are protected for longer, through the offenders’ incarceration, and enable victims to feel safe for longer. These offenders will still be subject to stringent licence conditions and liable to be recalled to prison for the remaining third of their sentence following release should they be released by the Parole Board, though it is unknown whether a reduced licence period will have any impact.

Victim Experience

47. The introduction of parole reviews may now provide victims of terrorist or related offences the opportunity to voice the impact of the offence in parole hearings. This should improve transparency, and therefore confidence, in the justice system.

Local Authorities, including YOTs

48. Local authorities who provide services to these offenders when released into the community may incur savings due to the reduced time these offenders will spend in the community. This will relate particularly to accommodation, but will also be relevant for those cases in which Children’s Services are involved as an agenda with a ‘duty to cooperate’ with multi-agency public protection arrangements (MAPPA).

Unquantified impacts

49. Reoffending data specific to this cohort of offenders is not available. While offenders ending up serving their full sentence in custody on a Standard Determinate Sentence will not have a licence period and therefore no support during the critical through the gate period which could mean reoffending risk may be more likely, there is no evidence to suggest that this might be the case. We therefore cannot say whether increasing the period spent in custody will impact upon reoffending rates and level of crime.

50. Legal challenge of existing prisoners questioning the change to their release provisions are unquantified. Associated court costs and legal aid are not considered as such costs depend on the volume of challenges which are not able to be predicted.

F. Assumptions and Risks

51. No sensitivity analysis has been conducted as part of this Impact Assessment, however three scenarios have been considered to take into account uncertainty around the future volume of terrorism offences.

52. The impacts estimated in this IA are based on certain assumptions. These assumptions, and the associated risks, are described in Table 3 below.

Table 3: Assumptions and Any Associated Risks

Assumption	Risks
Policy only applies to terrorist and terrorism related offences and assumes all cases are identified by practitioners.	Given the speed at which these changes are being made, there is a risk that prisons are unable to correctly identify all relevant serving prisoners if the court did not identify that there was a terrorist

	connection when passing sentence for offences related to terrorism. However, this will be mitigated by working closely with prisons to put suitable checks in place ahead of any pending releases.
Estimates of future volumes into the criminal justice system (CJS) are assumed to be the average of the last 3 years of convictions derived from published statistics ¹⁰ on terrorism convictions	The volume of terrorism offences is highly volatile, with large peaks in offences in certain years when key events take place. Average volumes smooth out this volatility and could be an understatement should a large terrorist event take place. Also, this will not capture any future increased demand from continued increased resources diverted to terrorism.
It is assumed that there will be no change in the types of sentences given; using existing volumes of terrorist prisoners in custody, 43% are Standard Determinate Sentences, 26% are Sentenced Offenders of Particular Concern and 31% are serving Extended Determinate Sentences (of all SDS, SOPC and EDS sentences).	The mix of terrorist offences and types of sentences may change over time. As a result, future entrants into the system may not conform to the distribution of sentence types in the future.
Sentence lengths for input volumes into the CJS are assumed to be the mid-point of the min/max of sentence band as published in Home Office data.	Volumes data based on sentence bands rather than complete sentence lengths were used. It may be the case that sentences are generally longer or shorter than the average, though it's not possible to know.
About 57% of Parole Board (PB) hearings are conducted on paper, the remaining conducted through an oral hearing. Of those conducted on paper, 4% are released while 33% of oral hearings result in release. Proportions are taken from the Parole Board Annual Report and Accounts for 2018/19 and are assumed to remain constant going forward.	There is a risk that terrorist offenders experience lower or higher release rates through Parole Board hearings, though there is no evidence to suggest one way or the other.
All offenders are assumed to have one PB hearing. If an offender is refused release then then we assume that they are released at the completion of their sentence.	This may lead to an overestimate of the prison population impact, as some prisoners will have to be re-referred to the Parole Board at least every two years and so may be successful at a later date before the end of the sentence.
Those serving an SDS and released at the end of their sentence have no licence period, while those serving a SOPC and released at the end of their sentence are assumed to serve a 12 month licence.	Actual impact will depend on the point at which offenders are released and probation costs would be higher if the average release point is earlier than assumed.
Probation unit costs are derived by assuming terrorist offenders would carry the highest risk, that is being Tier A offenders. However, the risk level of offenders within any Tier cover a range and terrorist offenders are assumed to be at the upper range of risk. Tier A unit costs are roughly £10,000 but because of the assume high-end risk, a probation unit cost of £12,000 has been assumed for purposes of estimating benefits.	Probation unit costs are highly uncertain and are undergoing revision in light of current probation reforms. The assumed unit cost is highly indicative and likely to be somewhat of an underestimate given the high-risk nature of the cohort in scope.

¹⁰ Home Office, Operation of Police Powers under the Terrorism Act 2000, quarterly update to September 2019. Annual Tables, Table C.04. <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-september-2019>

<p>Youth offenders convicted of terrorism offences have been considered as part of our estimates. However, we have assumed that any impact on the youth custodial estate are assumed to be negligible. This is due to the small number youth offenders convicted of terrorism offences and the likelihood that most of those sentenced to custody would transition to the adult estate before release, meaning any additional burden is felt by the adult prison estate.</p>	<p>Depending on numbers and profiles of youth sentenced in the future, there could eventually be some costs to the youth custodial estate. Should there be children who spend longer in the youth estate rather than additional time in the adult estate, this will lead to a minor increase in the overall cost.</p>
<p>Prison unit costs are assumed to be the overall resource expenditure male dispersal cost per place of £63,447 (2018/19 prices). This is based on the rationale that these offenders are likely to be risk assessed as highly dangerous therefore requiring dispersal throughout the prison estate, thus ensuring that they are not concentrated in a single establishment in order to reduce the risks involved in holding them. We further assume that such prisoners remain in the same type of establishment for the duration of their sentence.</p>	<p>Prison unit costs cover the day to day running costs of a prison only, and do not incorporate any capital costs associated with construction, investment and costs associated with any developing or contracted out services or rehabilitative activities these prisoners might undertaken while in custody. To that effect, these costs are likely to be lower than actual costs.</p>
<p>Parole Board reviews cost £315 for a paper hearing and £1,336 for an oral hearing (2018/19 prices (2018/19 prices inflated to 2019/20).</p> <p>Associated legal aid costs for PB reviews are £456 for a paper hearing and £2,058 for an oral hearing (in 2019/20 prices.</p> <p>Reconsideration of Parole Board decisions is assumed to be so small as to be negligible and therefore is not costed.</p>	
<p>This policy would occur alongside ongoing plans to expand the prison estate to account for a projected increase in the prison population. Any expected increase in prison population because of government policy must be considered in light of on-going prison capacity building. This approach allows us to consider the overall need for prison places from increased demand created in the system all government policies, however small the calculated impacts. The construction cost for this policy in isolation would be greater/small.</p>	
<p>Prison construction costs are presented in 2019/20 prices. Average unit costs are derived from departmental commitment to build 10,000 additional spaces over a 10-year period with an estimated cost of £2.5 billion to the department, and these are uplifted 20% to reflect the higher security category of establishment needed to house</p>	

G. Wider Impacts

Equalities

53. The provisions of this Bill apply to all members of the public who are convicted and sentenced for a relevant terrorism offence, including those who are currently serving a sentence for a relevant terrorism offence. For this reason, there is no assessed direct discrimination within the meaning of the Equalities Act 2010.
54. Quantitative data suggests that Asian/British Asian and Muslim individuals have been disproportionately affected by terrorism legislation relative to the percentage of Asian/British Asian and Muslim individuals in the total population^[1]. There is a perception by some Muslim communities that terrorism legislation is both designed and used to target Muslim communities.
55. However, the trends reflect the current types of terrorism which are prevalent in the UK, most notably Islamist and extreme Far Right terrorism. Sizeable numbers of White individuals are also arrested, charged and convicted of terrorism offences under the 2000 Act. Our assessment is that the proposals are not reflective of discrimination, direct or indirect, within the meaning of the Equality Act as we believe they do not put people with protected characteristics at a particular disadvantage when compared to others who do not share those characteristics. The overrepresentation of some groups within scope of this policy is based on other drivers such as the type of offending committed by certain groups which can have catastrophic consequences and not on the protected characteristics. The new provisions will apply to all relevant terrorist offenders, regardless of race, religion or otherwise. As a matter of public protection, the provisions of the Bill are a proportionate approach to achieve the legitimate aims of the reforms as detailed above and not indirectly discriminatory within the meaning of the Equalities Act 2010.
56. An Equalities Impact Statement is published alongside this Impact Assessment.

Better Regulation

57. These proposals do not meet the definition of regulation under the Small Business Enterprise and Employment Act 2015. Any costs which arise will not score against the department's business impact target and will met by MoJ and HMPPS.

H. Monitoring and Enforcement

58. In the normal way, the Terrorist Offenders (Restriction of Early Release) Bill will be subject to a post-legislative review to determine whether is legislation is working in practice as intended. This will take place between three and five years following Royal Assent.

[1] Home Office, Operation of Police Powers under the Terrorism Act 2000, quarterly update to September 2019, Annual Tables, Tables A.09, A.10, A.11, A.12a-c, P.01, P.02, P.03, and P.04 <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-september-2019>