

Title: Counter-Terrorism and Sentencing Bill IA No: MoJ057/2020 RPC Reference No: N/A Lead department or agency: Ministry of Justice Other departments or agencies: Home Office	Impact Assessment (IA)			
	Date: 18/05/2020			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
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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
-£13.1m	N/A	N/A	N/A

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

The attacks at Fishmongers' Hall on 29 November 2019 and in Streatham on 2 February 2020 demonstrate the risk to public safety that we are facing from known terrorist offenders who are released having spent insufficient time in custody. The terrorism threat level in the UK remains "substantial" – meaning an attack is likely – and there have been 25 attacks foiled since March 2017. Government intervention to ensure that serious and dangerous terrorism offenders spend longer in custody and are monitored more effectively upon release is necessary to keep the public safe and requires primary legislation.

What are the policy objectives and the intended effects?

The policy objectives are to better protect the public from terrorism by strengthening the law which governs the sentencing, release, and monitoring of terrorism offenders. The intended effect of this will be that serious and dangerous terrorism offenders will spend longer in custody, which provides better protection for the public, more time in which to support the offender's disengagement and rehabilitation through the range of tailored interventions available while they are in prison, and ensures the length of sentence reflects the seriousness of the crime. It will also strengthen the ability of the Government and operational partners, including HM Prison & Probation Service (HMPPS) and the police, to monitor and manage the risk posed by terrorist offenders and individuals of terrorism concern outside of custody.

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 custodial sentence length, release mechanisms, licence periods and licence conditions for those convicted of key terrorism or terror-related offences, and to enhance provision of monitoring arrangements for those of terrorism concern

Option 1 is the Government's preferred option as it best meets the policy objectives, and some of the measures were commitments made during the General Election campaign. While the Government believes that the combined effect of all the measures is likely to be greater than the sum of the effect of each individual measure, this IA will consider the impact of each measure separately. Non-statutory options were considered but could not deliver the policy objectives.

Will the policy be reviewed? It will be subject to post-legislative scrutiny in the normal way to determine whether the legislation is working in practice as intended, 3-5 years after Royal Assent. **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 Minister

..... Date:

Summary: Analysis & Evidence

Policy Option 1

Description: Legislate to change custodial sentence length, release mechanisms, licence periods and licence conditions for those convicted of key terrorism or terror-related offences, and to enhance provision of monitoring arrangements for those of terrorism concern.

FULL ECONOMIC ASSESSMENT

Price Base Year 2019/20	PV Base Year 2019/20	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £3.7m	High:£17.6m	Best Estimate:£13.1m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0.1m	£0.4m	£3.7m
High	£6.4m	£1.1m	£17.8m
Best Estimate	£4.2m	£0.9m	£13.1m

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

This option includes three provisions which will create costs for the criminal justice system. First, serious terrorist and terrorism related offenders likely to receive an extended sentence would either face a 14-year minimum term or be required to serve all of their sentence in custody, plus an extended licence period. In steady state, this may result in fewer than 50 additional prisoners at a cost of about £0.3m annually and fewer than 50 additional probation caseload at a cost of less than £0.1m annually. Second, expanding the Sentence for Offenders of Particular Concern regime to cover more offences would increase probation caseloads by fewer than 50 offenders at a cost of about £0.1m annually in steady state. Third, adding polygraph testing to certain offenders' licence conditions would affect fewer than 150 offenders at a cost of about £0.4m annually in steady state. There will also be transition costs of £4.1m due to the expected need for new prison places to be created to house prisoners in custody for longer. Other Bill measures are not expected to have significant cost impacts.

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

Longer periods in custody could disrupt family relationships which are often critical to reducing the risk of reoffending. This would be more severe for young offenders and children convicted of terrorist offences. 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	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

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

It has not been possible to identify and monetise the expected benefits associated with the measures of the Bill.

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

There will be a degree of greater public protection from retaining offenders in custody for longer. A small number of offenders will now serve their full custodial term without a parole hearing, however given such small numbers it is not possible to estimate any benefit on the Parole Board. Additionally, the police will benefit from greater information derived from failed polygraph tests thereby improving public protection and public confidence in the system that manages terrorist and terrorism-related offenders. Other changes in the bill will also help manage the risk of terrorist attacks by enhancing the management of terrorist offenders and suspects in the community.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

- The scale of these costs is highly uncertain, as they depend on future terrorism crimes committed and on sentencing behaviour. 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.
- 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.
- 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 threat level in the UK remains “substantial” – meaning an attack is likely, and there have been 25 attacks foiled since March 2017¹.
2. The terrorist attacks at Fishmongers’ Hall on 29 November 2019 and in Streatham on 2 February 2020 highlight the risk to public safety from known terrorist offenders. Each incident was committed by a terrorist offender who had been released automatically halfway through his sentence, and in each case the individual was being monitored on licence. These attacks demonstrate the need for terrorist offenders to spend longer in prison and to strengthen the risk management arrangements available when they are released into the community.
3. In the 12 months to December 2019, there were 46 offenders sentenced for terrorism or terrorism related offences in England and Wales, of which 24 (52%) were sentenced to less than 4 years in custody, and a further 17 (24%) were sentenced to 4 to 10 years in custody. One was sentenced to life imprisonment and one received a non-custodial sentence². Volumes in Scotland and Northern Ireland are negligible in comparison to those of England and Wales, though have been included in the modelling.
4. Of the England and Wales cohort, 41 were convicted and sentenced to custody for terrorism offences and 5 for terrorism related offences. The most common offence was collection of information useful for an act of terrorism, with 10 convictions. The next most common offences were dissemination of terrorist publications, fundraising, and preparation for acts of terrorism³ with 7 convictions each.
5. Terrorist offenders can receive a variety of sentences depending on the offence committed, the maximum penalty available, and whether the court has deemed the offender to be dangerous. In England and Wales, those assessed as dangerous may receive an Extended Determinate Sentence (EDS), which comprises a custodial term and an extension period to be served on licence in the community. In Scotland and Northern Ireland, Extended Sentences are available which also provide for a custodial term and extension period.
6. In England and Wales, adult offenders not assessed as dangerous but who have been convicted of a specified terrorism offence receive a Sentence for Offenders of Particular Concern (SOPC) in England and Wales. Other offenders may receive a standard determinate sentence.
7. The Government intended to bring forward legislation to change the sentencing and release of terrorist offenders, but the events in Streatham in February 2020 made the need for change more urgent. In response, the Government introduced the Terrorist Offenders (Restriction of Early Release) (“TORER”) Act 2020, which means that all terrorist or terrorism-related offenders in Great Britain sentenced for offences with a maximum penalty of more than two years must now be referred to the Parole Board at the two-thirds points of the sentence before they can be considered for early release. If the Parole Board approves release and they are released before the end of their sentence, they serve the remainder of their sentence in the community on licence. Those who receive a SOPC (currently only applicable to adults) may be considered for release by the Parole Board once they have served two-thirds of the custodial element of their sentence. The sentence includes an extension period of 12 months, so that even if the prisoner is released at the end of their custodial term, they will serve 12 months on licence in the community. (These changes were not applied to Northern Ireland at the time but this Bill will apply the provisions UK wide.)

¹ Source: Home Office figures.

² Home Office, Operation of Police Powers under the Terrorism Act 2000, quarterly update to December 2019, Annual Tables, Table C.04 <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-december-2019>

³ Home Office, Operation of Police Powers under the Terrorism Act 2000, quarterly update to December 2019, Annual Tables, Table C.03 <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-december-2019>

8. The sentencing framework differs for children under 18, who can receive Detention and Training Orders and for whom SOPCs do not currently apply.
9. The TORER Act was only the first stage of our legislative response to these attacks, and the urgency with which its introduction was required limited its scope significantly. The vital legislation we are introducing now goes further by strengthening every stage in the process of dealing with convicted terrorist offenders, across the UK. The purpose of the options assessed in this impact assessment (IA) is to ensure serious and dangerous terrorists serve longer sentences, to strengthen monitoring and supervision arrangements in the community for terrorist offenders, and to align sentencing and release provisions for terrorist offenders across the UK.

B. Policy Rationale and Objectives

10. 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).
11. In this case, however, the primary rationale and the associated policy objectives for the options assessed in IA are to improve public protection and public confidence in the administration of justice.
12. The associated policy objective is to better protect the public. The Counter-Terrorism and Sentencing Bill will achieve this firstly through the more effective sentencing of terrorist offenders to ensure that terrorist offenders spend longer in prison, both to reduce the threat they pose to the public and to provide more time in which to support their disengagement and rehabilitation through the range of tailored interventions available while they are in prison. Secondly, the Bill will strengthen the ability of the Government and operational partners, including the Prison and Probation Services of England and Wales, Northern Ireland and Scotland, and the respective police services, to monitor and manage the risk posed by terrorist offenders and individuals of terrorism concern outside of custody – allowing for more effective intervention when this is required.

C. Affected Stakeholder Groups, Organisations and Sectors

13. The following IA groups will be most affected by the options considered in this IA:
 - Prison Services of England and Wales, Scotland and Northern Ireland - manage the prison population, including longer periods in prison for terrorist offenders.
 - Probation Services of England and Wales, Scotland and Northern Ireland – manage terrorist offenders for longer periods on licence in the community.
 - Parole Board/Parole Commissioners – who will have increased volumes of decisions on terrorist prisoners sentenced to a SOPC or new terrorist sentence, and for terrorist offenders in Northern Ireland in scope for the release provisions of the TORER Act. They will no longer receive referrals for release of the most serious and dangerous terrorists who will serve their full custodial term.
 - Offenders and their families – could be affected by longer time spent in custody and extended licence periods.
 - Youth Offending Teams (YOTs) – manage under-18s on licence in England and Wales, will be affected by significantly longer licence periods for youth terrorist offenders.

- Public – tougher sentences for terrorist offenders increases public protection, giving them more confidence in the justice system.
 - The police (particularly Counter-Terrorism Policing) and Security Service – will benefit from amendments being made to the tools available to manage the risk posed by those of terrorism concern.
14. In England and Wales, HM Prison and Probation Services (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 offenders will continue to be managed in the community, post-release, by local YOTs.

D. Description of Options Considered

15. In order to meet the Government's objectives the following legislative measures are proposed through the Bill:
- Revision of the current Extended Determinate Sentence (EDS) sentencing regime and post-release licence length for serious terrorism and terrorism-related offences:** This is comprised of two separate changes:
 - **The creation of a Special Terrorist Sentence (STS):** A minimum 14-year custodial sentence for the most serious and dangerous terrorist offenders, aged over 18, who do not receive a life sentence. This includes much tougher post-release supervision with a minimum licence period of 7 years up to a maximum of 25 years.
 - **Removing the conditional release point of the EDS for the most serious terrorism or terror-related offences and increase of the extended licence period:** This ensures that any terrorist offenders, adult or youth, convicted of a serious terrorism offence (one for which the maximum penalty is life) and receive an EDS will no longer be eligible for early release through the Parole Board at the two-thirds point of their sentence and will serve their full sentence in custody instead. This also increases the maximum licence period that courts can impose for serious terrorism offences from 8 to 10 years.
 - Aligning terror-related sentencing for those who do not receive an EDS:** This follows on from the changes in the TORER Act and ensures consistent sentencing of terrorist offenders across all ages and parts of the UK. It is comprised of the following three changes:
 - **Adding all the terrorism offences in scope of the TORER Act to the SOPC regime:** This will ensure that all terrorist offenders who do not receive an EDS will no longer be eligible for a Standard Determinate Sentence and will instead be sentenced to a SOPC, ensuring they are subject to a minimum licence period of 12 months after being released from custody, even if they spend the full custodial term in custody.
 - **Creating new equivalents of the SOPC regime where they do not exist already:** This will apply to terrorist offenders under the age of 18 in England and Wales and to all terrorist offenders (adult and youth) in Scotland and Northern Ireland, where there currently is no equivalent of the SOPC.
 - **Extending the TORER Act provisions to Northern Ireland:** This will align the release arrangements for terrorist offenders in Northern Ireland to those now in place in England, Wales and Scotland as a result of the TORER Act, meaning they will only be considered for release before the end of their custodial term through referral to the Parole Commissioners, and only from the two-thirds point of their sentence, replacing the current system.
 - Introduction of polygraph testing as part of licence conditions for terrorist offenders:** This strengthens the supervision of terrorist offenders by making polygraph testing mandatory for some offenders. This will apply UK wide to terrorist offenders aged 18 or over on the day of release.
 - Increasing the maximum penalty available for three terrorism offences:** This will increase the maximum sentence available for the courts to impose from 10 to 14 years for the following three terrorism offences:

- Membership of a proscribed organisation
 - Supporting a proscribed organisation
 - Attending a place used for terrorist training
- e) **Amending the terrorist connection provisions within the Counter-Terrorism Act (CTA) 2008:** The Bill will amend the CTA so that a court can find any offence with a maximum penalty of more than two years to have a terrorist connection. This can be an aggravating factor when sentencing and trigger registered terrorist offender notification requirements and may result in the court ordering forfeiture in a wider range of cases.
- f) **Adding potential terror-related offences to the EDS regime:** This increases the range of offences for which the courts can include a terrorist connection, which ensures the offender will spend all of their sentence in custody and the possibility for the courts to impose longer licence periods after release.
- g) **Amendments to the Terrorism Prevention and Investigation Measures (TPIM) Act 2011 (as amended by the Counter-Terrorism and Security Act 2015):** The Bill makes the following changes to TPIMs (that can be applied to both adults or youth), which together strengthen our ability to manage the risk posed by those of terrorism concern, including those released from prison:
- Amend the burden of proof standard for imposing a TPIM notice
 - Specify new measures which can be applied to TPIM subjects
 - Remove the maximum length for which a TPIM can last (currently set at 2 years) so they can be applied indefinitely
 - Allow a TPIM to be varied to ensure its effective functioning
- h) **Amendment to the Serious Crime Act 2007:** This allows Counter-Terrorism (CT) Policing to make a direct application to the High Court for a Serious Crime Prevention Order (SCPO) in relation to individuals over the age of 18 involved in terrorism, supporting their use in terrorism cases.
- i) **Expanding the Registered Terrorist Offender (RTO) notification requirements:** This adds the offences of breaching a TPIM notice and breaching a Temporary Exclusion Order to the list of relevant terrorism offences that trigger the RTO notification requirements, which require individuals aged 16 or over to provide certain information about changes in their circumstances to the police.

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

- **Option 0: Do nothing: Make no changes to the sentencing and post-custody supervision of terrorist offenders.**
- **Option 1: Legislate to change custodial sentence length, release mechanisms, licence periods and licence conditions for those convicted of key terrorism or terror-related offences, and to enhance provision of monitoring arrangements for those of terrorism concern.**

17. The preferred option is Option 1 as it best supports the Government's policy objectives of protecting the public through tougher sentences and enhanced post-sentence supervision for terrorist offenders.

Option 0: Do nothing

18. Under Option 0 there would be no changes to the sentencing of serious and dangerous terrorist offenders or additional supervision requirements after release from custody. Maintaining the status quo and not strengthening our sentencing, release and monitoring provisions is not desirable as this would leave the heightened risk posed by terrorist offenders unaddressed.

Option 1: Legislate to change custodial sentence length, release mechanisms, licence periods and licence conditions for those convicted of key terrorism or terror-related offences, and to enhance provision of monitoring arrangements for those of terrorism concern.

19. Option 1 includes a range of legislative measures – described under a) to i) below - which collectively form a cohesive approach across the justice system, law enforcement, and the security and intelligence agencies to address societal threats from terrorist and terrorism-related offending. These

measures form a cohesive package and the Government's approach could be undermined if certain measures were excluded from the Bill. Therefore, although this IA estimates the potential impact of each measure separately, all measures are presented collectively in the summary of costs.

20. Some of the provisions of the Bill apply to youth offenders. These include: removing Parole Board consideration for young terrorist offenders convicted of a serious terrorism offence and sentenced to an EDS and giving the courts the possibility to apply an extension period of up to 10 years; creating a SOPC equivalent for terrorist offenders under the age of 18; adding all the terrorism offences in the scope of the TORER Act 2020 and extending its provisions to Northern Ireland; adding potential terrorism-related offences to the scope of the EDS regime; amending the CTA 2008; strengthening TPIMs and expanding RTO notification requirements.
21. The provisions of this Bill apply to the devolved jurisdictions of Northern Ireland and Scotland.
22. Our assumed implementation date for the combined provisions under Option 1 is 1 January 2021.

a) Revision of the current EDS sentencing regime and post-release licence length for terrorism and terrorism-related offences

Option 0: Do nothing. This would mean that terrorist offenders who have committed the most serious offences (i.e. for which the maximum penalty available is life imprisonment) and have been deemed dangerous would continue to be eligible for release at the two-thirds point of their sentence. It would also mean that courts would continue to have the option of an extension period of up to 8 years for terrorist offenders sentenced to an EDS.

Option 1: Amend the current EDS sentencing regime and post-release licence length for terrorism and terrorism-related offences, to remove the possibility of early release from custody for terrorist offenders sentenced to an EDS and extend the extension period they could spend on licence. This will also ensure that the most serious terrorist offenders that are given an STS will serve at least 14 years in prison and be under supervision after release for at least seven years.

23. The preferred option is **Option 1** as it best meets the Government's objectives of protecting the public by providing for longer incapacitation of terrorist offenders while enabling more time in which to support their disengagement and rehabilitation through the range of tailored interventions available while they are in prison.

b) Aligning terrorism-related sentencing for those that do not receive an EDS

Option 0: Do nothing. This would mean it would be possible for some terrorist offenders to receive a fixed term or Standard Determinate Sentence and not be subject to any post-release licence period if they were not released by the Parole Board before the end of their sentence and therefore served their full sentence in custody.

Option 1: Amend the current sentencing regime for terrorist offenders who do not receive an EDS. Through expansion of the offences which will attract a SOPC, creation of an equivalent sentence for youths and for Scotland and Northern Ireland, and extension of the release provisions of the TORER Act to Northern Ireland, this ensures that all terrorist offenders will be subject to post-release supervision upon release.

24. The preferred option is **Option 1** as it completely removes the possibility of any terrorist offenders being released automatically before the end of their sentence, with the only possibility of early release being through the Parole Board. By also ensuring that all terrorist offenders will be subject to a mandatory licence period upon release the Government is meeting its objectives of protecting the public.

c) Introduction of polygraph testing as part of licence conditions

Option 0: Do nothing. Do not introduce polygraph testing for terrorist offenders on licence.

Option 1: Introduce polygraph testing as part of licence conditions of terrorist offenders. This aims to ensure that terrorist offenders are not breaching their licence conditions. Failed tests can lead to further investigation which in turn will mean offenders breaching their licence will be recalled to prison, helping to protect the public from possible reoffending. Testing will be available for terrorist offenders currently on licence as well as those released or sentenced in future.

25. The preferred option is **Option 1** as polygraph testing is a proven risk management tool which can be used to encourage compliance, and to identify where adult offenders are breaching the conditions of their licence where, without it, close monitoring and supervision would be required to achieve the same insight.

d) Increasing the maximum penalty available for three terrorism offences

Option 0: Do nothing. The maximum penalty available to the courts for the specified offences (membership of a proscribed organisation; supporting a proscribed organisation; and attending a place used for terrorism training) will remain at 10 years.

Option 1: Increase the maximum penalty available for the three specified terrorism offences. Under this option the maximum penalty for these three offences (mentioned in Option 0 above) will be increased to 14 years. This means that where the courts see appropriate, they would be able to impose longer sentences.

26. The preferred option is **Option 1** as it gives the courts scope to impose longer custodial sentences where appropriate and brings the maximum penalties for these three offences more closely into line with the penalties for other similar serious offences.

e) Amending the terrorist connection provisions within the Counter-Terrorism Act (CTA) 2008

Option 0: Do nothing. By not amending the CTA there will be offences for which the courts are not able to consider a terrorist connection. This means there is the potential for offences to be committed with a terrorism connection and the courts would not be able to aggravate these, the RTO requirements may not be engaged, and the court would not have the discretion to order forfeiture of property.

Option 1: Amend the CTA. This would give greater flexibility to the courts, allowing them to consider whether there is a terrorism connection for any offences with a maximum penalty of over two years. This will minimise the likelihood of an offence being committed with a terrorism connection and the courts not being able to consider this as an aggravating factor for the purposes of the sentencing. The court may also order forfeiture of property at the point of sentencing, and the RTO notification requirements would be triggered on release where a terrorism connection is established.

27. The preferred option is **Option 1** as it closes gaps in the sentencing of terrorism-related offenders by ensuring courts are able to consider whether more offences have a terrorist connection. This will ensure the appropriate sentences and post-sentence supervision penalties can be applied where needed.

f) Adding potential terror-related offences to the EDS regime

Option 0: Do nothing. Make no changes to the terror-related sentences for which the courts can impose an EDS, potentially leaving the opportunity for dangerous terrorist offenders that would meet the threshold for an EDS if the offence was eligible to be released from custody before the end of their sentence.

Option 1: Add potential terror-related offences to the EDS regime allowing the courts to apply an EDS to a wider range of terror-related offences. This ensures the offender will spend the full sentence length in custody and the courts can impose longer licence periods. Both of these

measures aim to increase public protection and reduce the possibility for reoffending by keeping terrorist offenders under supervision for longer. The offender would still have to meet the threshold before an EDS can be imposed, so this change would only affect serious terrorist offenders.

28. The preferred option is **Option 1** as it removes the possibility of serious and dangerous terrorist offenders being eligible for early release from custody and ensures longer supervision periods post-release where the courts deem necessary.

g) Amendments to the Terrorism Prevention and Investigation Measures (TPIM) Act 2011 (as amended by the CTSA Act 2015)

Option 0: Do nothing and make no changes to the TPIMs, thus limiting the conditions that can be imposed on individuals of terrorism concern.

Option 1: Amend the TPIM Act removing the two year maximum length; amending the burden of proof; specifying new measures that can be applied to TPIM subjects; and allowing for a TPIM notice to be varied to ensure its effective functioning.

29. The preferred option is **Option 1** as it will enhance the ability of operational partners, such as counter terrorism policing, to manage the risk posed by individuals subject to TPIMs.

h) Amendment to the Serious Crime Act 2007

Option 0: Do nothing. This means that applications to the relevant Court for an SCPO could only be made by the Director of Public Prosecutions in England and Wales (and the Lord Advocate and the Director of Public Prosecutions for Northern Ireland in Scotland and Northern Ireland respectively).

Option 1: Amend the Serious Crime Act to allow CT Policing to apply directly to the relevant Court (e.g. the High Court in England and Wales) for a SCPO where an individual is involved in terrorism.

30. The preferred option is **Option 1** as it could support the wider use of SCPOs by CT Policing to restrict or disrupt an individual's potential involvement in terrorism-related activity.

i) Expanding the Registered Terrorist Offender (RTO) notification requirements

Option 0: Do nothing. This would not allow RTO notification requirements, which require individuals aged 16 or over to provide certain information about changes in their circumstances to the police to be applied where a TPIM or Temporary Exclusion Order is breached, inhibiting the effective sharing of information.

Option 1: Expand the RTO notification requirements. This ensures that the police will have more information on offenders that breach a TPIM or Temporary Exclusion Order, supporting them to minimise the risk of terrorist offending.

31. The preferred option is **Option 1** as it enhances the ability of the police to manage the risk posed by individuals who commit these offences.

E. Cost and Benefit Analysis

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

33. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in the United Kingdom 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.

34. 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).
35. There is significant uncertainty around the future volume of terrorism offences coming before the courts and around sentencing decisions. Given the potential uncertainty, the impacts of Option 1 are presented under 3 scenarios:
 - **Low:** Based on the historic volumes of sentences, it is assumed that future terrorism offence volumes will be in line with the lowest levels in the historic data. Outside of polygraph testing, the costs for this scenario are negligible.
 - **Central:** Based on the historic volumes of sentences, it is assumed that there will be a similar volume of terrorism offences as seen in within the past 3 years.
 - **High:** Based on the historic volumes of sentences, 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.
36. 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.
37. Unless otherwise stated, at 20% optimism bias has been applied to all impacts (costs and benefits).
38. The issues and risks associated with these – and other – assumptions are detailed in section F.

a) Revision of the current EDS sentencing regime and post-release licence length for terrorism and terrorism-related offences

Costs of Measure (a)

39. Monetised costs

Prison Services

40. These costs reflect the longer time spent in custody due to the 14-year minimum term for the most serious offenders and the removal of discretionary release from the two-thirds point for offenders convicted for a serious terrorism offence and sentenced to an EDS sentences. Any additional prison place needed as a result of the resulting population increase will incur an annual running cost of £63,447^{4,5}. 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.
41. Under our central scenario, the impact on the prison population is estimated to be fewer than 50 additional places and the annual prison running costs for the additional prison places to be £0.4m. For the low and high scenarios, the estimated annual costs would range from so small as to be negligible and £0.5m respectively. These costs will fall on HMPPS for England and Wales.
42. A range of other factors currently in train, such as the recruitment of 20,000 police officers, may have substantial impacts on the overall prison population. It is therefore assumed in this IA that any increase in the prison population arising under new proposed policy, however small, will require the

⁴ In 2018/19 prices, this was converted to 19-20 prices for this analysis.

⁵ Ministry of Justice, Prison performance statistics 2018 to 2019. <https://www.gov.uk/government/statistics/prison-performance-ratings-2018-to-2019>

construction of additional prison capacity through prison building. This applies to the range of scenarios considered in this IA.

43. New capacity can be provided in a number of ways, though for this IA construction costs are based on the cost per place representing new build, and are 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.
44. Any associated construction costs for this measure in isolation are estimated to be around £4.1m 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. For the high scenario the additional build cost associated with the increase would be £6.2m. 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, it is intended to work across Government to ensure sufficient funding to meet the forecast capacity needed.
45. Offenders in Northern Ireland and Scotland, as well as youth offenders convicted of terrorism offences, have been considered as part of our estimates. Any impact on the devolved custodial estates or the youth estate are expected to be negligible.

Probation Services

46. The most serious terrorist or terrorism-related offenders will face longer licence periods under this provision, whether subject to an STS or the longer maximum licence periods for those subject to EDS with no possibility of early release. As stated above, fewer than 50 additional offenders would be on licence per year in the steady state for an annual cost of less than £0.1m. For the low and high scenarios, the estimated annual costs would range from so small as to be negligible and less than £0.1m respectively.
47. These costs are uncertain because the NPS is currently undergoing a programme of reforms resulting from a review of the service. 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.
48. Offenders in Northern Ireland and Scotland, as well as youth offenders convicted of terrorism offences, have been considered as part of our estimates. Any impact on the devolved probation services for adults and youth provision are expected to be negligible.

Non-monetised costs

Offenders and their families

49. There is limited evidence of the impact of longer prison terms on re-offending. The existing evidence indicates that prisoners in custody for longer come to terms with their offending and are able later in their sentence to begin constructive activities⁶, which are in turn associated with reduced risk of reoffending. On the other hand, research also shows that serving a life sentence can be a factor linked to an increased risk of self-harm while in prison (as well as being on remand/unsentenced)⁷. There is a risk of offenders radicalising others during their stays in custody, though some evidence suggests that containment practices currently in place tend to help minimise this risk⁸.
50. At the same time, 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 also 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.

⁶<https://www.compen.crim.cam.ac.uk/PDFs/SwimmingwiththeTideAdaptingtoLongTermImprisonment.pdf>

⁷ <https://www.gov.uk/government/publications/self-harm-by-adult-men-in-prison-a-rapid-evidence-assessment>

⁸ Rushchenko, J. (2019) Terrorist recruitment and prison radicalization: Assessing the UK experiment of 'separation centres'. *European Journal of Criminology*, 16(3), p 295-314. <https://doi.org/10.1177/1477370819828946>

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

Benefits of Measure (a)

Monetised benefits

51. It has not been possible to identify any monetised benefits associated with this measure.

Non-monetised benefits

Parole Board

52. A negligible number of terrorist and terrorism related offenders will serve a full EDS and be automatically released at the completion of their custodial term before serving their licence period in the community. Therefore, these offenders would no longer require a Parole Board hearing. As this will be appreciably fewer than 50 offenders, no estimate of benefit to the Parole Board has been estimated.

Public protection and public confidence

53. Providing for a minimum period in custody for the most serious terrorist and terrorism-related offenders will ensure victims and the wider public are protected for longer, through the offenders' incarceration, and enable victims to feel safe for longer. Once released, these offenders will still be subject to stringent licence conditions and liable to be recalled.

Unquantified impacts

54. Reoffending data specific to this cohort of offenders is not systematically available in the UK, though where terrorist recidivism has been studied internationally it is generally found to be appreciably less likely than general criminal recidivism though often of a highly damaging nature¹⁰ Nevertheless, we cannot say whether introducing a minimum custodial term will impact upon reoffending rates and overall level of crime.

55. It is possible that the introduction of the 14-year minimum custodial term for the most serious and dangerous terrorist offenders (along with the longer licence period and more intense supervision during this period) will act as a deterrent to possible terrorist offenders. However, there is no evidence available for this cohort to support this. Also, as the STS will be for the most serious and dangerous terrorist offenders who do not receive a life sentence it is likely that any offender receiving this sentence would receive a long EDS under the current regime, which could already act as a deterrent.

b) Aligning terror-related sentencing for those that do not receive an EDS

Costs of Measure (b)

Monetised costs

Probation Services

56. In the central scenario, fewer than 50 additional offenders would be on licence per year in the steady state for an annual cost of around £0.1m. For the low and high scenarios, the estimated annual costs would range from so small as to be negligible and less than £0.2m respectively.

57. These costs are uncertain, however, because the NPS is currently undergoing a programme of reforms. The high-risk nature of offenders affected by the proposed legislation may mean the depth of supervision for those who remain on licence must increase, thereby increasing costs.

Non-monetised costs

58. There are no identified non-monetised costs associated with this measure.

¹⁰ Renard, T. (2020) Overblown: Exploring the Gap between the Fear of Terrorist Recidivism and the Evidence. *Combating Terrorism Centre: Sentinel*, 30(4). <https://ctc.usma.edu/overblown-exploring-the-gap-between-the-fear-of-terrorist-recidivism-and-the-evidence/>

Benefits of Measure (b)

Monetised benefits

59. It has not been possible to identify any monetised benefits associated with this measure.

Non-monetised benefits

60. Ensuring terrorist or terrorism-related offenders that do not receive an EDS are supervised in the community for a minimum period of time will assist with the transition into public life after a period in custody, and crucially will build up a pattern of life which enables security services to monitor them effectively, helping to protect the public.

c) Introduction of polygraph testing as part of licence conditions

Costs of Measure (c)

Monetised costs

Probation Services

61. Establishing polygraph testing for terrorist and terrorism-related offenders will generate an initial transition cost of just more than £0.1m. This is composed of an 11 week basic training in polygraph testing per examiner, specialist polygraph training for terrorism, accommodation during the training and the polygraph equipment itself.
62. Adding polygraph testing to licence conditions would affect fewer than 150 offenders in the central scenario in steady state, covering both those existing offenders on licence and all those who will be on licence in future. It is estimated that this would require five examiners to administer polygraph tests to this cohort for the duration of their licence periods. The annual costs associated with polygraph testing are comprised of staff salaries for the five examiners, travel and subsistence and quality control oversight. Additionally, examiners will be required to attend continuing professional development conferences every two years. The resulting average annual cost of polygraph testing is therefore approximately £0.4m in steady state, reflecting that testing will be conducted both on those currently on licence and those to be released on licence in the future.
63. Under the low scenario, it is still assumed that five examiners would be required to meet the baseline demand, despite there being negligible impact on probation under the changes in this Bill. All of the monetised costs for the low scenario come from the requirement of five trained examiners and all other areas have negligible monetised costs.
64. In the high scenario there would be over 100 more terrorist offenders on licence at any time in steady state than in the central estimate. It is assumed that this additional demand can be met by training one additional examiner, bringing the total to six. This would bring the initial transition cost up to £0.2m. The average annual cost would also increase but would be the same as in the central and low scenarios after rounding (£0.4m).
65. These cost estimates apply to England and Wales only. While polygraph testing will be rolled out in Northern Ireland and Scotland, the exact arrangements are yet to be determined, and the small volumes of terrorist offenders in both nations suggest that costs associated with polygraph testing will be minimal.

Non-monetised costs

66. There are no identified non-monetised costs associated with this measure.

Benefits of Measure (c)

Monetised benefits

67. It has not been possible to identify any monetised benefits associated with this measure.

Non-monetised benefits

Public protection and public confidence

68. Although offenders subject to testing cannot be recalled to custody for failing a polygraph test, they can be recalled for making disclosures during the test that reveal they have breached other licence conditions or that their risk has escalated to a level whereby they can no longer be safely managed in the community. This will improve public protection by ensuring that highly serious terrorist and terrorism-related offenders are monitored more closely. Moreover, information gathered from a failed examination will be routinely shared with the police who are able to conduct further investigations that may or may not result in charges being made thereby improving public protection and public confidence in the system that manages terrorist and terrorism-related offenders.

d) Increasing the maximum penalty available for three terrorism offences

Costs of Measure (d)

Monetised Costs

69. While it is not possible to predict the terrorist threat that we face over the coming years and how this will impact on the volume of prosecutions and the length of sentences imposed, historic numbers of convictions of the three affected Terrorism Act 2000 (TACT) offences are low. Between January 2015 and December 2019 24 individuals were convicted under terrorism legislation for membership of or supporting a proscribed organisation as the principal offence and 3 individuals for terrorist training as the principal offence¹¹. Given the historically low number of convictions it is not expected that the increase in maximum penalties will have a significant monetised cost.

Non-Monetised Costs

70. It has not been possible to identify any non-monetised costs of this measure.

Benefits of Measure (d)

Monetised Benefits

71. It has not been possible to identify any monetised benefits of this measure.

Non-Monetised Benefits

72. This measure brings the maximum penalties for these three offences more closely into line with the penalties for other similar serious offences such as encouragement to terrorism (section 1 of the Terrorism Act 2006) and ensures they properly reflect the risk and seriousness of these offences.

e) Amending the terrorism connection provisions within the Counter-Terrorism Act (CTA) 2008

Costs of Measure (e)

Monetised Costs

73. This change will increase the possibility that, at the point of sentencing, a court could identify a terrorist connection in relation to a non-terrorism offence (as the court would not be constrained by the current list of offences specified in Schedule 2 of the CTA 2008). When this happens it will have the effect of being an aggravating factor for the purposes of sentencing. The individual could be subject to the forfeiture regime and would be subject to the RTO notification requirements. If an

¹¹ Operation of police powers under the Terrorism Act 2000: quarterly update to December 2019: annual data tables, Table A.08a, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869699/operation-police-powers-terrorism-dec2019-annual-tables.xlsx

offender were to be handed a longer custodial sentence as a result of an aggravated sentence then there would be an additional cost that would fall to HMPPS. Details on these costs are detailed above in relation to measure (a). As mentioned in relation to measure (f), an increased number of individuals subject to RTO notification requirements is expected to lead to a negligible increase in costs for CT Policing.

74. It is not possible to predict the terrorist threat that we face over the coming years and how this will impact on the volume of prosecutions where a terrorist connection is identified. However, we assess that the instances in which this would occur where it is not already possible under existing legislation (e.g. because the non-terrorism offence is not currently specified in Schedule 2) to be minimal.

Non-Monetised Costs

75. There are no identified non-monetised costs associated with this measure.

Benefits of Measure (e)

Monetised Benefits

76. It has not been possible to identify any monetised benefits of this measure.

Non-Monetised Benefits

77. This change will ensure that all those who engage in sufficiently serious offences with a terrorist connection can be subject to the terrorism sentencing, notification requirements and forfeiture regimes. This will ensure that any gaps that might exist in the current list of non-terrorism offences specified in Schedule 2 of the CTA 2008 are eliminated. It will ensure that individuals convicted for an offence with a terrorist connection serve sufficiently long sentences and are subject to appropriate reporting and oversight requirements following their release from prison.

f) Adding potential terror-related offences to the EDS regime

Costs of Measure (f)

Monetised Costs

78. It has not been possible to estimate the number of historic convictions resulting in an EDS sentence for offences that the courts currently could not determine to have a terror connection and so it is not possible to directly estimate the impact this will have on future sentencing. However, it is thought that any impacts are likely negligible.

Non-Monetised Costs

79. There are no identified non-monetised costs associated with this measure.

Benefits of Measure (f)

Monetised Benefits

80. There are no identified monetised benefits with this measure.

Non-Monetised Benefits

81. This change increases the number of terrorist sentences eligible for an EDS, ensuring they will now carry tougher custodial sentences and post sentence supervision requirements.

g) Amendments to the Terrorism Prevention and Investigation Measures (TPIM) Act 2011 (as amended by the CTS Act 2015)

Costs of Measure (g)

Monetised Costs

82. It is not possible to predict the terrorist threat that we face over the coming years and how this will impact on the volume of TPIM notices that may be in place and the costs of administering these. Existing processes within partner agencies will be used to carry out drug and polygraph testing where possible, while there may be some costs associated with expanding this to TPIM subjects these are expected to be negligible given the low volumes. There may also be some costs associated with rehousing TPIM subjects who are relocated under the new provision to allow variation of a relocation measure for reasons other than national security, but this is expected to be infrequent so the costs are not expected to be significant. There may be some increased legal costs associated with these changes but these are unpredictable and have not been estimated.

Non-Monetised Costs

83. No non-monetised costs have been identified for this measure.

Benefits of Measure (g)

Monetised Benefits

84. It has not been possible to identify any monetised benefits of this measure.

Non-Monetised Benefits

Burden of Proof

85. Amending the TPIM Act 2011 (as amended by the CTSA 2015), to change the burden of proof for imposing a TPIM notice from “on the balance of probability” to “reasonable grounds for suspicion” will help ensure that operational partners are better able to impose TPIM notices on individuals where there is a requirement to protect national security.

Extending length of time

86. Extending the length of time for which a TPIM notice can last from two years to indefinite will avoid a potential “scenario where a TPIM subject reaches the end of their TPIM notice but is still considered a threat to national security, and will avoid the administrative burden of requiring operational partners to apply for a new TPIM notice where the existing measures are still needed.

New measures to be applied

87. Specifying new measures which can be applied to TPIM subjects, including a requirement for a TPIM subject (who is not subject to a relocation measure) to provide details of their address, will provide operational partners with additional information and enhance their ability to manage the risk posed by these individuals.

Curfew

88. The Secretary of State currently has the power to impose a measure on a TPIM subject requiring that they remain within a specified residence “*overnight between such hours as are specified*”. The curfew measure will strengthen the Secretary of State’s power to specify that a TPIM subject must remain at a specified residence between certain hours and therefore enhance their ability to manage individuals of terrorist concern.

Drugs testing

89. In cases where suspected drug use has been identified as a relevant factor in the national security threat posed by an individual, this measure will allow operational partners to confirm this through a

mandatory drug test appointment and where necessary mandate attendance at rehabilitation programmes.

Polygraph testing

90. This measure will assist operational partners in assessing whether an individual is complying with their measures and using the results of the test to make any variations as necessary to the individual's specified measures to prevent or restrict their involvement in terrorism related activity.

Variation of relocation measure to ensure effective functioning

91. This measure will assist operational partners in circumstances where the relocation measure of a TPIM notice needs to be varied – for reasons other than national security – to ensure effective management of the TPIM subject.

h) Amendment to the Serious Crime Act 2007

Costs of Measure (h)

Monetised Costs

92. The monetised cost of adding terrorism offences to the list of specified 'serious offences' in Schedule 1 to the Serious Crime Act 2007, estimated in the Counter-Terrorism and Border Security Act 2019 Bill impact assessment, was between £10,000 and £100,000 per annum¹². The introduction of this measure is not expected to significantly increase per annum costs which will remain within the estimated range.

Non-Monetised Costs

93. There are no identified non-monetised costs associated with this measure.

Benefits of Measure (h)

Monetised Benefits

94. There are no identified monetised benefits with this measure.

Non-Monetised Benefits

95. An SCPO can prevent involvement in serious crime and terrorism by imposing various conditions on a person. Currently, the police are unable to apply directly to the relevant Court for an SCPO (an application must be made by the DPP in England and Wales, the Lord Advocate in Scotland, and the DPP for Northern Ireland in Northern Ireland). This measure is intended to allow CT Policing to make full use of this tool to prevent and disrupt involvement in terrorism, by streamlining the process and allowing them to apply direct to the relevant Court (e.g. the High Court in England and Wales) to have an SCPO placed on an individual.

i) Expanding the Registered Terrorist Offender (RTO) notification requirements

Costs of Measure (i)

Monetised Costs

96. Based on historic sentencing rates for the offences of breaching a TPIM and breaching a Temporary Exclusion Order, and the number of offenders who are prosecuted for breach of RTO notification requirements, the costs of additional prosecutions arising from this measure is not expected to be

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740981/CTBS_Bill_Impact_Assessment_Lords_Introduction.pdf

significant. Due to the low sentencing rates, and the low costs of administering current notifications, the costs to law enforcement of managing the additional RTO notifications resulting from this measure are expected to be negligible.

Non-Monetised Costs

97. No non-monetised costs have been identified for this measure.

Benefits of Measure (i)

Monetised Benefits

98. It has not been possible to identify any monetised benefits of this measure.

Non-Monetised Benefits

99. Adding the offences of breach of TPIM and breach Temporary Exclusion Order to the list of offences which can trigger the RTO notification requirements will allow the police to have greater contact with these offenders and provide them with access to more information, enabling them to better assess risk and manage any potentially terrorist or criminal behaviour.

F. Assumptions and Risks

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

101. The impacts estimated in this IA are based on certain assumptions. These assumptions, and the associated risks, are described in Table 1 below.

Table 1: Assumptions and Any Associated Risks

Assumption	Risks
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 ¹³ 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.
Input data for volumetric impacts modelling is derived from Home Office data which does not establish the mix of sentence types given to terrorist and terrorism-related offenders. The baseline mix of custodial sentences given is assumed to be comprised of the 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 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	Volumes data based on sentence bands rather than complete sentence lengths were used. It may be the case that sentences are generally longer or

¹³ Home Office, Operation of Police Powers under the Terrorism Act 2000, quarterly update to December 2019. Annual Tables, Table C.04. <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-december-2019>

<p>min/max of sentence band as published in Home Office data.</p>	<p>shorter than the average, though it's not possible to know.</p>
<p>Offenders in Northern Ireland and Scotland are included in our baseline estimates and impacts are assumed to be proportionate.</p>	<p>Volumes of terrorist and terrorism-related offenders are small in both Northern Ireland and Scotland. Bespoke estimates for each jurisdiction cannot therefore be derived.</p>
<p>Licence lengths used in modelling are assumed to be the mid-point of the range of available licence lengths.</p>	<p>Judges may issue licence lengths either longer or shorter than the mid-point of the range, suggesting probation caseloads (and associated costs) could be higher or lower than estimated depending on judicial action.</p>
<p>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.</p> <p>Given small input volumes in both Northern Ireland and Scotland, it is assumed that the probation costs for England and Wales are sufficient to cover any associated probation costs in both jurisdictions.</p>	<p>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.</p>
<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 is negligible. This is due to the small number of 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 predominantly 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 would 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, inflated to 2019/20 prices for modelling). 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>Given small input volumes in both Northern Ireland and Scotland, it is assumed that the prison costs for England and Wales are</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 undertake while in custody. To that effect, these costs are likely to be lower than actual costs.</p>

sufficient to cover any associated prison costs in both jurisdictions.	
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 ongoing prison capacity building. This approach allows us to consider the overall need for prison places from increased demand created in the system by all government policies, however small the calculated impacts.	
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 the higher risk category of the affected cohort of offenders.	

G. Wider Impacts

Equalities

102. 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 on licence for having committed relevant terrorism offence for polygraph testing. Where appropriate, some provisions will apply only to adults. The TPIM and SCPO measures can also apply to all members of the public who are involved in terrorism-related activity, with SCPO measures being applicable only to those aged 16 or over. For this reason, there is no assessed direct discrimination within the meaning of the Equalities Act 2010.
103. Quantitative data suggests that Asian/British Asian and Muslim individuals within the Criminal Justice System (CJS) have been disproportionately affected by terrorism legislation relative to the percentage of Asian/British Asian and Muslim individuals in the total population¹⁴. However, the trends reflect the terrorist ideologies prevalent in the UK, most notably Islamist Extremist and extreme Far Right terrorism. Of those individuals arrested, charged and convicted of terrorism offences under the Terrorism Act (2000), it is therefore Asian and White individuals who make up the majority of this cohort. Our assessment is that the proposals are not reflective of unlawful 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, and the overrepresentation of some groups within scope of this policy will reflect the nature of terrorism in the UK at any given point. 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 unlawfully indirectly discriminatory within the meaning of the Equalities Act 2010.

¹⁴ In previous publications we have made comparisons of ethnic groups to ethnic groups in the population using 2011 Census data. In the 2011 Census the proportion in each ethnic group was as follows: 87% White, 3% Black, 6% Asian, 2% Mixed and 2% Chinese or Other. As this data is now several years old it may not accurately represent the distribution of ethnic groups in the population, particularly for children when comparing to 2018 CJS figures. As such analysis to compare against the general population, which relies on the 2011 Census data is not usually included.

104. An Equalities Impact Statement is published alongside this Impact Assessment.

Better Regulation

105. 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

106. In the normal way, the Counter-Terrorism and Sentencing Bill will be subject to a post-legislative review to determine whether it is working in practice as intended. This will take place between three and five years following Royal Assent.