

<b>Title:</b> Police, Crime, Sentencing and Courts Act: Assault on Emergency Workers Increased Maxima  <b>IA No:</b> <b>RPC Reference No:</b> N/A <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> N/A	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 28/04/2022			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary Legislation			
<b>Contact for enquiries:</b> <Katie.Dougal@justice.gov.uk>				

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> N/A
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Cost of Preferred (or more likely) Option (in 2021/22 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£204.8m	N/A	N/A	

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

The Assaults on Emergency Workers (Offences) Act came into force on 13 November 2018. The Act modified the criminal offence of assault or battery for instances where it is committed against emergency workers by increasing the maximum penalty from 6 to 12 months. However, and following this change, the Government committed in its manifesto to consult on doubling the maximum penalty for assaulting an emergency worker and on 13 July 2020 launched a targeted consultation which delivered on this commitment. The large majority of those who responded were in favour of doubling the maximum penalty from 12 months to 2 years to ensure that emergency workers have sufficient protection from the law to enable them to carry out their duties and that the maximum penalty reflects the severity of the offence. The Government has therefore committed to double the maximum penalty for this offence. Government intervention is required as changes to maximum penalties require primary legislation.

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

The policy objective is to make sure the courts have the powers they need to deal effectively with those who use violence or threats against emergency workers and to ensure the maximum penalty is proportionate and reflects the severity of the offence committed. We in turn expect for sentence levels to increase for this offence.

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

The following options are considered in this impact assessment (IA):

**Option 0/Do nothing** - Continue to rely on existing maximum penalty for the offence of assault on an emergency worker to allow the courts to continue with existing sentencing powers to punish offenders.

**Option 1** – Introduce legislative measures to increase the maximum penalty for the offence of common assault and battery on an emergency worker from 12 months to 2 years’ imprisonment.

The preferred option is to implement option 1 as this best meets the policy objectives.

<b>Will the policy be reviewed? It will be reviewed. If applicable, set review date:</b> Date not set					
Does implementation go beyond minimum EU requirements?			N/A		
Is this measure likely to impact on international trade and investment?			No		
Are any of these organisations in scope?		<b>Micro</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A		<b>Non-traded:</b> N/A

*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:** Introduce legislative measures to increase the maximum penalty for the offence of common assault and battery on an emergency worker from 12 months to 2 years' imprisonment.

## FULL ECONOMIC ASSESSMENT

Price Base Year 21/22	PV Base Year 21/22	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: - £177.7m	High: - £255.9m	Best Estimate: - £204.8m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£44.4m	£18.3m	£177.7m
High	£54.3m	£28.7m	£255.9m
Best Estimate	£50.1m	£21.4m	£204.8m

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

Sentencer behaviour is expected to shift towards more punitive disposals to reflect the increase in the perceived seriousness of the offence following the increase in the maximum penalty. The main steady state costs associated with an increase in the prison population are estimated at £11.7m per annum to HM Prison & Probation Service. The construction of additional prison capacity required in the first year is estimated to cost £50.1m. The Probation Service and Electronic Monitoring Service will face higher caseloads, resulting in estimated associated costs of £7.6m and £0.5m per annum respectively. HM Courts and Tribunals Service and the Legal Aid Agency will face higher costs from a higher proportion of cases tried in the Crown Court and increases in breaches, which are estimated at £1.1m and £0.6m per annum respectively.

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

There may be some transitional costs to HM Courts and Tribunals Service and the Sentencing Council related to the preparation of new guidance and training material, and additional costs to the Crown Prosecution Service due to higher volumes in the Crown Court. These have not been monetised due to a lack of cost data. Offenders who may otherwise have received a non-custodial sentence may experience adverse impacts in terms of their employment, relationships, housing, etc., which may create costs for wider society although it is not possible to quantify these with any precision.

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':

No benefits have been monetised.

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

Increased penalties could contribute to improved public confidence in the criminal justice system and provide improved confidence in the justice system for victims by better reflecting the harm of the offence.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.50%
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- 1) The implementation date is Spring 2022.
- 2) Estimates are based on historical figures on offences dealt with in 2019.
- 3) Assaults on emergency workers proceeded against are assumed to increase in line with prison projection impacts due to increase in police officer numbers.
- 4) Racially or religiously aggravated common assault or beating is used as a proxy offence for determining sentencing outcomes due to the fact it carries a maximum penalty of 2 years and the two offences are of a similar nature.
- 5) It is assumed that additional prison estate is required to accommodate the increased prison caseload at a cost of £250k per place. Annual prison costs of £48,672 (excluding optimism bias) are based on averages<sup>1</sup> and actual costs will vary depending on the needs and risks of the offender.
- 6) Optimism bias of 20% has been applied to all costs.

## BUSINESS ASSESSMENT (Option 1)

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

<sup>1</sup> Source: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/929417/costs-prison-place-costs-prisoner-2019-2020-summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929417/costs-prison-place-costs-prisoner-2019-2020-summary.pdf)

# Evidence Base

## A. Background

1. The current offence and associated penalty for common assault or battery committed against emergency workers is set out in section 1 of the Assaults on Emergency Workers (Offences) Act 2018 ('the 2018 Act'), which came into force on 13 November 2018. The maximum penalty for this offence is currently 12 months' imprisonment, or a fine, or both. This applies to both summary conviction or conviction on indictment where the provisions of section 1(1) are met.
2. In 2019, over 11,250 cases of assault of an emergency worker were proceeded against, with around 9,050 cases resulting in a sentence. Of these, 1,900 cases received a fine, 3,600 cases received a community sentence, 950 cases received a suspended sentence, and a further 1,550 cases received an immediate custodial sentence. Of those receiving an immediate custodial sentence, most (67%) were sentenced to 3 months or below, 27% were sentenced to between 3 and 6 months, with only 6% receiving an immediate custodial sentence of 6 months or more in length.<sup>1</sup>
3. In July 2021, the Sentencing Council's updated common assault guideline came into effect, which includes guidance on sentencing when the offence is committed against an emergency worker. However, any impact of this guidance on sentence levels for this offence has not been accounted for in the economic assessment due to incompatibility with modelling timescales and data as the data which the modelling is based on pre-dates the introduction of the sentencing guidelines.
4. There are higher maximum penalties in place for more serious offences, including assault occasioning actual bodily harm (five years' imprisonment maximum penalty); assault occasioning grievous bodily harm (five years' imprisonment maximum penalty); assault occasioning grievous bodily harm with intent (maximum life imprisonment) and manslaughter (maximum life imprisonment). In such cases, the 2018 Act requires the court to consider the fact that the offence was committed against an emergency worker as an aggravating factor, which is considered in sentencing decisions. Where an aggravating factor is applicable to an offence, it will merit an increase in the sentence for that offence within the maximum penalty.
5. On 13 July, the Government launched a targeted consultation with representative groups for emergency workers, as defined by the Assaults on Emergency Workers (Offences) Act 2018, and other key stakeholders, including the judiciary, CPS and legal practitioners, on doubling the maximum penalty for assaulting an emergency worker. This was in line with the manifesto commitment to consult on doubling the maximum sentence for assaulting emergency workers. The consultation sought feedback on how the legislation is operating in practice and whether the current maximum penalty provides the courts with sufficient powers to reflect the severity of the offending. This consultation closed on 7 August 2020.
6. The large majority of those who responded were in favour of doubling the maximum penalty from 12 months to 2 years to ensure that emergency workers have sufficient protection from the law to enable them to carry out their duties and that the maximum penalty reflects the severity of the offence. Therefore, on 15 September 2020, the government announced that it will double the maximum penalty for assaulting an emergency worker to 2 years.

## B. Rationale and Policy Objectives

7. The conventional economic approach to government intervention is based on efficiency or equity arguments. The government may consider intervening if there are strong enough failures in the ways that markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both

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<sup>1</sup> Source: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/938568/outcomes-by-offence-tool-2019.xlsx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938568/outcomes-by-offence-tool-2019.xlsx)

cases, the proposed intervention should avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and redistribution reasons (e.g. to reallocate goods and services to the more needy group in society).

8. The rationale for government intervention in this instance is based on equity grounds: re-consideration of the current law to ensure that offenders are both consistently and fairly dealt with. In particular, the government wants to make sure that the penalties available to the courts are proportionate and reflect the seriousness of the offences committed.
9. The associated policy objectives are to make sure that the options available to the courts to sentence offenders who assault emergency workers are proportionate, reflect the seriousness of the offences committed and provide victims with a sense that justice has been done.

## C. Affected Stakeholder Groups, Organisations and Sectors

10. The options assessed in this IA will apply in England and Wales. A list of the main groups and stakeholders who would be affected by the proposals described in this IA are shown below.
  - Victims of assault on emergency workers and their families;
  - Offenders/those committing these offences;
  - Her Majesty's Prison and Probation Service (HMPPS);
  - Her Majesty's Courts and Tribunals Service (HMCTS);
  - The Legal Aid Agency (LAA);
  - The Crown Prosecution Service (CPS);
  - Electronic Monitoring Service;
  - Sentencing Council;
  - Her Majesty's Treasury (HMT);
  - The public.

## D. Options Under Consideration

11. To address the policy objectives, the following options are assessed in this IA:

- **Option 0/Do nothing** - Continue to rely on existing maximum penalty for the offence of assault on an emergency worker to allow the courts to continue with existing sentencing powers to punish offenders.
- **Option 1** – Introduce legislative measures to increase the maximum penalty for the offence of common assault and battery on an emergency worker from 12 months to 2 years' imprisonment.

12. **Option 1** is the preferred option as it best meets the policy objectives.

### Option 0

13. Under this option, the maximum penalty for assaulting an emergency worker would remain unchanged at 12 months imprisonment. This would not fulfil the governments manifesto commitment nor reflect the views expressed during the consultation and the severity of the offence.

### Option 1

14. This option would ensure that the seriousness of the offence is reflected in sentencing by increasing the maximum penalty available to sentencers. It is anticipated that this would be implemented in autumn 2021.

## E. Cost and Benefit Analysis

15. This Impact Assessment (IA) follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
16. Where possible, this IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the options under consideration. The costs and benefits of each option are compared to option 0, the do nothing or 'baseline' case. As the 'baseline' option is compared to itself, the costs and benefits are necessarily zero, as is its Net Present Value (NPV).
17. The IA guidance places a strong focus on the monetisation of costs and benefits. There are often, however, important impacts that cannot sensibly be monetised. These might be impacts on certain groups of society or some data privacy impacts, positive or 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 non-monetised.
18. Where figures are stated annually, they are presented as the steady state unless otherwise stated. All figures quoted refer to the central scenario, unless otherwise stated.

### Methodology

15. All costs in this IA are given in 2021-22 prices with a 20% optimism bias applied to all costs.
16. The NPV of the policy is appraised over a 10-year period beginning in April 2021. The implementation date of the policy is modelled as May 2022.
17. We assume that numbers proceeded against for the offence increase in line with prison projection impacts due to the increase in police officer numbers.
18. It is assumed that sentencing will become more punitive across disposal outcomes due to the perceived seriousness of the offence increasing as a result of the change in maxima. Hence racially or religiously aggravated common assault or beating is used as a proxy to estimate the composition of cases under Option 1, due to similarities in the nature of the offence and sentencing severity (both have a maxima of 24 months). As a result, fewer cases receive discharges or fines and more receive either community, suspended, or custodial sentences under Option 1.
19. The annual composition of disposal outcomes for assaults on emergency workers has been calculated by applying the proportions of each disposal category for racially and religiously aggravated common assault or beating to the total number sentenced for assaults on emergency workers in 2019.
20. The proportion of cases tried in the Crown Court is expected to increase as a result of the increase in maximum sentence under Option 1. The expected proportion is increased to reflect that of the proxy offence (racially or religiously aggravated common assault or beating).
21. Due to the uncertainty around average custodial sentence length (ACSL), three scenarios are modelled, as outlined in Table 1 below. The scenarios aim to illustrate the potential range of the ACSL under Option 1.
  - The central scenario assumes the ACSL is the same as the observed average for the racially or religiously aggravated common assault or beating offence during the 2015-2019 period.
  - The high and low scenario assumptions are based on the highest and lowest observed annual ACSL for racially or religiously aggravated common assault or beating in that same time period.
  - To reflect the uncertainty around the ACSL of offenders that breach their community or suspended sentences and are sentenced to custody, the high scenario assumes that these figures are equal to that observed for all offences. In contrast, the central and low scenario

assume that the ACSL for breaches of community and suspended sentences is the same as that of the original offence committed (assault of an emergency worker).

- All three scenarios are compared to a counterfactual that assumes the current ACSL of 2.6 months for the offence of assault of an emergency worker to estimate the costs of Option 1 on the various agencies of the criminal justice system.

**Table 1: Average Custodial Sentence Length (ACSL) by Scenario.**

Assumption	Central Scenario	High Scenario	Low Scenario
Average Custodial Sentence Length (months)	3.98	4.16	3.74
Percentage Increase (relative to Option 0)	51%	58%	42%
ACSL for Breaches of Community Sentences (months)	3.98	8.32	3.74
Percentage Increase (relative to Option 0)	51%	220%	42%
ACSL for Breaches of Suspended Sentences (months)	3.98	10.85	3.74
Percentage Increase (relative to Option 0)	51%	317%	42%

22. It is assumed that any additional prison places will incur an annual running cost of £48,672 in England and Wales (excluding optimism bias)<sup>2</sup>. This is the average cost of providing a prison place per annum based on overall resource expenditure and includes staffing and estate costs; it does not cover contracted out costs or capital. Actual running costs may be higher or lower depending on the specific estate required to accommodate the additional caseload and the needs of the offenders.
23. It is assumed that, in England and Wales, any increase in the prison population will require the construction of additional prison capacity through prison building at a cost of £250k per place.
24. New prison capacity can be provided in numerous ways, so construction costs are based on the cost per place of a combination of provisions including new builds and refurbishments and is based on the nominal costs of each project, using a modelled profile of build. It should be noted that these costs are indicative and will vary depending on the type of estate being built and whether any increase in prison population could be accommodated in existing estate.

**Option 1: Introduce legislative measures to increase the maximum penalty for the offence of common assault and battery on an emergency worker from 12 months to 2 years' imprisonment.**

**Costs of Option 1**

Monetised costs

*HMCTS and LAA*

25. An estimated 250 cases per annum will be tried in the Crown Court instead of the magistrates' courts. We have used a five-year annual average of the proportion of cases heard in Crown Court for

<sup>2</sup> Source: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/929417/costs-prison-place-costs-prisoner-2019-2020-summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929417/costs-prison-place-costs-prisoner-2019-2020-summary.pdf)

the offence of racially or religiously aggravated common assault or beating to inform costs under Option 1. Trials in the Crown Court incur higher expenses regardless of the outcome. Given the difference between ACSLs in all three scenarios is relatively low, we assume the proportion of cases tried in the Crown Court remains the same and hence costs to HMCTS do not vary (whilst there might be some slight variation, this is unlikely to significantly affect the HMCTS cost estimates). As a result, this option is expected to increase costs for HMCTS by an estimate of £1.0m per annum in each scenario.

26. The increased number of community sentences and suspended sentences, which stems from the assumption that sentence behaviour becomes more punitive as a result of an increase in the perceived seriousness of the offence, would also lead to a larger number of breach hearings<sup>3</sup> for HMCTS. An estimated additional 70 breach hearings are expected annually, which would increase costs to HMCTS by an estimate of £0.09m per annum.
27. When combined, the above results in estimated total costs to HMCTS of £1.1m per annum, which is constant across all three modelled scenarios.
28. Similarly, the Legal Aid Agency will experience additional costs amounting to an estimated £0.6m per annum due to the increased proportion of cases tried in the Crown Court. These costs are also constant across all three modelled scenarios as with HMCTS costs.

#### *HM Prison Service*

29. We assume an additional 450 cases per annum resulting in immediate custodial sentences under Option 1. There will also be additional prison inflows from breaches of community or suspended sentences, with a magnitude of around 70 cases per annum. This will increase estimated annual prison running costs by between £10.3m and £16.8m, with a best estimate of £11.7m.
30. These additional cases and longer sentence lengths combine to increase the number of prison places required under Option 1. The estimated 200 additional prison places required are assumed to be met by constructing new prison capacity in 2022/23/22. These estimated construction costs will range between £44.4m and £54.3m, with a best estimate of £50.1m.

#### *National Probation Service*

31. The aforementioned factors of additional, as well as longer, custodial sentences also increase probation costs due to more people requiring longer supervision after being released on licence. The increased number of community and suspended sentences under Option 1 also increase costs to the probation service. The costs to the probation service are expected to increase by an estimated total of £6.2m to £9.3m, with a best estimate of £7.6m.

#### *Electronic Monitoring Service*

32. The increased number of community and suspended sentences under Option 1 will increase the number of cases requiring Electronic Monitoring (EM) as part of their sentence. The estimated annual costs to the Electronic Monitoring Service are expected to increase by between £0.2m and £1.0m, with a best estimate of £0.5m per annum.

#### Non-monetised costs

##### *HM Courts & Tribunals Service, Sentencing Council*

33. There may be some one-off transitional costs for HMCTS and the Sentencing Council associated with the preparation of new training or guidance material. However, we are unable to realistically quantify these transitional costs because of a lack of cost data. We anticipate any costs to be relatively low.

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<sup>3</sup> Breach hearings refer to cases where an individual has breached the terms of their community or suspended sentence and will subsequently be sentenced to custody after a hearing in the Magistrates' or Crown Court.

## *Crown Prosecution Service*

34. There may be increased costs to the Crown Prosecution Service due to a higher number of cases being tried in Crown Court, given the longer duration of trials in this court. We were unable to monetise these costs due to a lack of unit cost data. However, we expect costs to be low since the overall caseload doesn't increase significantly over the appraisal period.

## *HM Treasury*

35. There could be reduced revenues to HMT from fines, however any impact is likely to be low and hence isn't monetised.

## *Offenders & their Families*

36. Offenders who receive a more punitive disposal where they would have received a fine previously could face a greater chance of unemployment, loss of housing, negative effects on relationships or mental health. These effects could pose a cost to other areas of government by increasing demand for public goods and services such as unemployment benefits or social housing. We are unable to realistically quantify these costs as it is not known how incarceration affects offenders' and their families' consumption of public goods and services.

## **Benefits of Option 1**

### Monetised benefits

37. It has not been possible to monetise the benefits from Option 1 because of the difficulty in quantifying the effects detailed in Paragraphs 37-39. There are also no cost savings to the criminal justice system as a result of Option 1.

### Non-monetised benefits

#### *Victims & their Families, the Public*

38. Increasing the maximum penalty for this offence may increase the confidence victims and their families, as well as the general public, have in the justice system, if the sentence better reflects the harm caused.

39. By increasing the maximum penalty for this offence, the justice system may be portrayed as reaffirming the social value of emergency workers by aiming to protect them. This may be a beneficial alignment of government policy with the public's social values and help to ensure the maximum penalty reflects the seriousness of the offence. It could also help victims and their families in getting a sense of justice.

40. There may be benefits to criminal justice system agencies and society through a reduction in assault of emergency workers offences from increased deterrence. There may also be short-term reductions in assaults on emergency workers due to the increased incarceration of offenders. However, the evidence of the existence and scale of any deterrent effects or incarceration effects is weak and mixed<sup>4</sup>. As a result, we have not quantified these potential benefits in this IA.

## **Overall Impact of Option 1**

41. Table 2 below provides a summary of the impacts of Option 1 on the criminal justice system. The largest impacts are felt by the Prison and Probation Services, which would, based on the central scenario, incur estimated annual costs of £11.7m and £7.6m respectively, due to the increased number of immediate custodial, community and suspended sentences, as well as longer custodial sentencing lengths.

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<sup>4</sup> Source: <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>



42. To meet the demand for the higher number of prison places required under Option 1, prison construction costs estimated to be £50.1m are anticipated in 2021/22. HMCTS and LAA costs increase by an estimated £1.1m and £0.6m per annum respectively, due to an increased proportion of cases heard in the Crown Court. The Electronic Monitoring Service costs are estimated to be £0.5m per annum due to higher caseloads stemming from the increased number of community and suspended sentences.

**Table 2: Costs of Option 1 by Affected Agency and Scenario (millions of pounds) <sup>5</sup>**

	Central Scenario	High Scenario	Low Scenario
HM Courts and Tribunals System (annual)	£1.1m	£1.1m	£1.1m
Legal Aid Agency (annual)	£0.6m	£0.6m	£0.6m
HMPPS Total (excluding construction) (annual)	£19.3m	£26.1m	£16.5m
HM Prisons (annual)	£11.7m	£18.8m	£10.3m
National Probation Service (annual)	£7.6m	£9.3m	£6.2m
Electronic Monitoring Service (annual)	£0.5m	£1.0m	£0.2m
Prisons Construction (one-off)	£50.1m	£54.3m	£44.4m
NPV (10 year) (excluding construction)	-£156.4m	-£203.4m	-£134.8m
<b>NPV (10 year)</b>	<b>-£204.8m</b>	<b>-£255.9m</b>	<b>-£177.7</b>

## F. Assumptions, Risks & Sensitivity Analysis

43. The main assumptions used in the analysis, and the associated risks, are stated in the table below.

Assumption	Associated Risks
The policy will come into effect in Spring 2022, and for the purposes of this IA that has been assumed to be May 2022.	Any delay to the implementation of the policy will delay the impacts by an equal amount of time.

<sup>5</sup> The figures in the table may not appear to add up perfectly due to rounding. This table is a summary of the points explained in Section E.

<p>Future volumes of cases throughout the ten-year appraisal period are based on the observed caseload in 2019 and are adjusted to increase year-on-year in line with breakdowns of MoJ prison population projections<sup>6</sup>. The projections consider the effect on number of charges for all offences as a result of an increase in police force numbers.</p>	<p>1. Long-term trends in caseloads for assaults on emergency workers, which we were unable to identify having less than two years of historical data, could result in significantly lower or higher caseloads under the new legislation compared to the figures used in this IA and there is a risk that costs to different stakeholders could be higher or lower.</p> <p>2. The prison population projections are based on the premise that an increase in police force numbers will increase the number of crimes charged. These projections include their own inherent assumptions and associated risks which extend to our analysis.</p>
<p>The progression of cases through the courts (splits between different court types, and sentencing breakdowns) under Option 1 are assumed to equal the proportions of the Racially or religiously aggravated common assault or beating offence, which is used as a proxy throughout this IA.</p>	<p>While Racially or religiously aggravated common assault or beating has been carefully selected as a proxy due to the similar nature of the offence and sentencing severity, it remains a proxy and thus an imperfect measure of the statistics that might be observed for assaults on emergency workers under Option 1.</p>
<p>The average custodial sentence length (ACSL) under Option 1 reflects the proxy offence.</p>	<p>There is a risk that the choice of proxy is imperfect and that the actual sentencing lengths differ considerably between the two offences. We have built some sensitivity analysis around this by using the mean ACSL for the proxy offence observed over a five-year period in the central scenario. The high and low scenarios use the highest and lowest observed ACSL values in that timeframe.</p>
<p>The average community sentence length and the average suspended sentence length under Option 1 are based on the average observed for all offenders. We have assumed the average community sentence length is 20% longer than average for the high scenario and 20% shorter in the low scenario. We have assumed suspended sentences are 10% longer than average for the high scenario and 10% lower for the low scenario.</p>	<p>We were only able to obtain this data for all offenders who have breached their sentences, which is a subset of all the offenders that receive community or suspended sentences. This subset may not be representative of the wider population and community or suspended sentences could be longer or shorter.</p>
<p>Any additional prison capacity required to accommodate the influx from this policy is met by constructing new capacity in Year 1 after the policy is implemented.</p>	<p>1. Whether Option 1 requires additional prisons to be constructed depends on what impact other policies and external factors have on prison places simultaneously. If the additional caseload could be accommodated in existing estate, then this option may incur smaller costs relative to the results of our analysis.</p> <p>2. Our analysis rests on a fixed unit prison construction cost per place of £250,000. Whilst this assumption has been provided by the</p>

<sup>6</sup> Source:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/938571/Prison\\_Population\\_Projections\\_2020\\_to\\_2026.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938571/Prison_Population_Projections_2020_to_2026.pdf)

	<p>relevant experts which can assure its quality, in reality the cost schedule may not be linear, thus posing a risk to the accuracy of our analysis of prison construction costs.</p> <p>3. If construction doesn't occur in Year 1 but in later years or is spread out over multiple years, then there will be an impact on the NPV.</p>
It has been assumed that on average all offenders given immediate custodial sentences for the offence are released from custody at 50% of their sentence to serve the remainder on licence.	If the average proportion of sentence served is significantly different from 50%, then prison costs and probation costs may be different. E.g. if some offenders are released on Home Detention Curfew.
The eligibility for Legal Aid in the Crown Court is 100% whilst it is 50% in the magistrates' courts.	If legal aid eligibility is lower in the Crown Court then this would reduce legal aid costs. Conversely if legal aid eligibility was higher in the magistrates' courts then this would reduce costs versus the counterfactual.
Offences are tried in Courts under the category "Violence against the person".	If this were to change under future legislation, then the costs to HMCTS and LAA from this analysis may no longer be accurate.
The average custodial sentence length (ACSL) for breaches to community sentences and suspended sentences is the same as the ACSL for those sentenced to custody for the offence in the low and central scenario. To account for uncertainty, we assume the ACSL for breaches to community sentences and suspended sentences is equal to the average observed for all offences in the high scenario, which is significantly higher than the ACSL for the assault of an emergency worker offence.	The actual ACSL for breach could be higher or lower and hence prison costs for breach could be higher or lower.
The breach rate for community sentences is 3% whilst for suspended sentences it is 10% under Option 1.	These statistics are an average of all offences. If the relevant figures for this particular offence deviates largely from the average, then a risk is posed to the accuracy of our analysis and could make HMCTS, LAA and prison costs lower or higher.
The breach point occurs at the 0.49 point of community sentences and 0.41 of suspended sentences.	These estimates are based on data for all offences. If the relevant figures for this particular offence deviates largely from the average, then a risk is posed to the accuracy of our analysis. Costs to prison and probation could be higher or lower.
The hearing for individuals that breach their community or suspended sentence occurs in the same court in which they were originally sentenced.	Costs to HMCTS and the LAA could be higher or lower, however, given the relatively small number of breach hearings expected the impact is relatively small. We also expect relatively few breach cases to be heard in a different court.
Probation costs for offenders is the same whether the offender is out on licence, serving a	This assumption is based on the average cost for all forms of probation. In practice however there may be nuanced differences between the

community sentence, or serving a suspended sentence.	forms of probation which can result in different costs. There is a risk that actual costs could be higher or lower.
Electronic Monitoring costs are based on average cost and lifetime of equipment.	These costs are indicative of averages only and actual Electronic Monitoring costs will vary by offender and could be higher or lower.
The proportion of community sentences, suspended sentences, and offenders out on licence that require electronic monitoring are based on an average.	These proportions could change over the course of the ten-year appraisal period, making electronic monitoring caseloads (and costs) higher or lower, depending on sentencing behaviour.
The proportion of offenders receiving RF or GPS tags is based on an average.	There is a risk the proportions could vary. If a higher proportion of GPS tags are needed then this would increase costs.

## **G. Wider Impacts**

### **Equalities**

44. An Equalities Impact Assessment has been carried out in addition to this IA.

### **Better Regulation**

45. These proposals are exempt from the Small Business Enterprise and Employment Act 2015 and do not count towards the department's Business Impact Target.

### **International Trade**

46. There is no significant impact on international trade.

### **Environmental Impact Assessment**

47. We expect there to be no environmental impacts as a result of the options within this Impact Assessment.

### **Family Impact Test**

48. There is no significant impact on families.

## **H. Monitoring and Evaluation**

49. The policy will be reviewed in the normal way for post legislative scrutiny.