

<b>Title:</b> Police, Crime, Sentencing and Courts Bill: Sentencing, Release, Probation and Youth Justice Measures <b>IA No:</b> MoJ066/2020 <b>RPC Reference No:</b> N/A <b>Lead department or agency:</b> Ministry of Justice (MoJ) <b>Other departments or agencies:</b> Home Office	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 11/12/2020			
	<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>RPC Opinion:</b> N/A				

## Summary: Intervention and Options

Cost of Preferred (or more likely) Option (in 2020/21 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£730.7m	N/A	N/A	Not a regulatory provision

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

Too many serious and dangerous offenders are released too early from custody, not serving a sentence that reflects the severity of their crime and risking public safety. Sentencers and the public need to have confidence that there are effective and rehabilitative community options for low-level offenders. We also need to do more to tackle the causes of much offending, particularly where it is driven by drug or alcohol misuse or mental health issues. The sentencing of children needs to be reformed to prioritise youth rehabilitation, and to encourage the use of effective alternatives to custody and avoid unnecessary use of remand, while still ensuring children who commit serious offences receive appropriate sentences. The measures proposed in the Police, Crime, Sentencing and Courts (PCSC) Bill tackle these issues. Sentencing plays a crucial role in that system and changes to the adult sentencing and release framework are needed to ensure that the criminal justice system is working as effectively as possible.

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

The PCSC Bill proposes reforms to the justice system to create a more nuanced sentencing and release framework. The proposals for serious violent and sexual offenders will remove existing inconsistencies in release provisions and ensure that these offenders spend longer in prison. Providing more effective non-custodial sentencing options will improve public confidence and occupy offenders in meaningful and rehabilitative activity. Criminal records reform will address how employment can sometimes be a barrier to rehabilitation after release from custody. The reforms to youth justice will increase judicial and public confidence in stronger high-end community sentences and aim to raise the threshold for imposing custodial remand, while ensuring that sentences for serious offences work fairly and properly reflect the culpability of a child and the seriousness of their offending.

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

The following options are assessed in this Impact Assessment:

- Option 0 – Do nothing. Retain the current sentencing framework and provisions available for sentencing offenders, current system for out of court disposals and the current legislation for criminal record disclosure.
- Option 1 – Implement the PCSC Bill measures for the release of serious and dangerous offenders, for improving the custodial sentencing framework for children, for strengthening community sentences, for reform of the criminal records disclosure regime and for the simplification of the out of court disposal system as detailed in this impact assessment.

The government's preferred approach is option 1 as this best meets the policy objectives.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** No set date.

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?	Micro No	Small No	Medium No	Large No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: N/A		Non-traded: 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: 08/03/2021

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Implement the PCSC Bill measures for the release of serious and dangerous offenders, for improving the custodial sentencing framework for children, for strengthening community sentences, for reform of the criminal records disclosure regime and for the simplification of the out of court disposal system as detailed in this impact assessment.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2020/21	PV Base Year 2020/21	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -£648.0m	High: -£809.5m	Best Estimate: -£730.7m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£165.8m	£50.8m	<b>£674.0m</b>
High	£203.9m	£63.2m	<b>£836.0m</b>
Best Estimate	£176.7m	£58.0m	<b>£756.9m</b>

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

The main monetised costs of Option 1 over the next 10 years are as follows:

- Prison Services: Between £185.9m to £232.6m running costs; £165.8m to £203.9m construction costs.
- Electronic Monitoring Service: £12.9m to £30.2m for increasing the caseload who will be monitored.
- Probation Services: £67.5m to £84.9m from increased supervision, particularly through increased demand.
- Youth Custody Service: £38.6m to £61.4m for increased youth custodial population due to DTO changes.
- MoJ: £1.5m for piloting, monitoring and management based on initial research specifications.
- HM Courts and Tribunals Service and Legal Aid Agency: £38.5m
- Youth Offending Teams: between £24.5m and £47.7m for expanded youth community supervision.

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

Not all main affected groups are listed here, though the key ones are:

- Prison Services and the Youth Custody Service will face increased population and longer times spent in custody for some offenders, which may compound prison instability, self-harm, violence and overcrowding.
- Offenders and their families: Serving longer periods in custody may mean family breakdown is more likely, affecting prisoner mental health and subsequent reoffending risk.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	£2.6m	<b>£26.0m</b>
High	N/A	£2.6m	<b>£26.5m</b>
Best Estimate	N/A	£2.6m	<b>£26.2m</b>

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

- Prison Services: £1.4m for diversion of offenders due to piloting problem-solving courts.
- Probation Services: between £11.0m and £11.4m from reduced licence workload.
- All agencies associated with the Out of Court Disposal system: £13.7m from the simplification proposed.

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

Not all non-monetised benefits could be listed here due to space. The key non-monetised benefits are:

- Increased confidence in the criminal justice system for the public, victims, and the judiciary through improved public protection;
- Problem-solving courts and community sentencing changes will contribute to improved offender rehabilitation;
- Offenders will benefit due to increased opportunity for rehabilitation through tackling drivers of offending and increased potential employability.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5%
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Not all the assumptions can be listed due to space (see Section H for a full list). The main assumptions include:

- The implementation date is assumed to be Autumn 2021 (this may change but will not materially impact the analysis).
- Future estimated volumes are based on MoJ published statistics and justice system demand projections.
- Recruitment of additional police officers and the system's recovery from COVID could affect estimates.
- Assumes all sentencer behaviour remains the same, except where the measure proposed expects a change.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m: None			Score for Business Impact Target (qualifying provisions only) £m: N/A
Costs: N/A	Benefits: N/A	Net: N/A	



Ministry  
of Justice

# **Police, Crime, Sentencing and Courts Bill**

Sentencing, Release, Probation and Youth Justice Measures

**March 2021**

## A. Summary

1. The Police, Crime, Sentencing and Courts (PCSC) Bill will, in part, make changes to the sentencing and release framework in England and Wales<sup>1</sup>. At its heart, the PCSC Bill reflects the government's commitment to have a criminal justice system (CJS) that keeps people safe, as well as one which the public understands and in which they can have confidence.
2. The sentencing measures in the PCSC Bill will: ensure that serious and dangerous offenders are kept off the streets for longer; better protect the public; deliver punishments that are better balanced to the seriousness of crimes committed; work to tackle the many complex causes of offending; and provide the opportunity and support to reform for those offenders who truly want to turn their backs on crime.
3. This Impact Assessment (IA) explains the policy rationale and objectives which underpin the sentencing, release, probation and youth justice measures in the Bill and describes the key stakeholders who would be affected. It then provides an overview of the estimated effect of each of the measures on society, including both the monetised and non-monetised impacts.

## B. Background

4. In 2019, the CJS formally dealt with 1.52 million people. In this period, the police issued 144,000 out of court disposals (OOCs) and the courts proceeded against 1.37m individuals. Of those found guilty, the courts handed out 76,000 custodial sentences, and around 87,300 community orders, while the remaining offenders received a fine or other sentence<sup>2</sup>.
5. Statistics from the Crime Survey in England and Wales<sup>3</sup> suggested that, in 2017/18, around two thirds (69%) of the public are confident that the CJS is 'fair', with just over half of the public (53%) seeing the CJS as 'effective'. However, in the same year, less than half (40%) believed that courts are effective at giving punishments which fit the crime<sup>4</sup>.
6. The sentences passed by our courts are criticised, often not for their overall length but by the shortness of the actual time spent in custody. It is only sensible that sentence lengths and options vary according to the level of harm, though around 70% of the public believe that sentences are generally too lenient<sup>5</sup>. Research into attitudes around criminal sentencing shows us that victims who had little understanding of sentences and expressed feeling 'let down' after learning that the sentence given did not relate to the actual time the offender would spend in custody<sup>6,7</sup>.
7. The automatic early release of dangerous and serious offenders risks public safety, as well as public confidence. Previous legislative changes have been made to address the automatic early release for serious sexual and violent offenders sentenced to 7 years or more. We have also ended automatic early release for terrorist offenders through the Terrorist Offenders (Restriction of Early Release) (TORER) Act 2020 and introduced the Counter-Terrorism and Sentencing Bill to ensure terrorist offenders spend longer in prison and can have longer periods of supervision on licence.
8. At the other end of the spectrum, the justice system could better support offenders committing low level offences, particularly through more effective and tailored community sentences. In 2019,

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<sup>1</sup> Bill measures related to driving offences will also be given affect in Scotland, please see related sections of this IA for details.

<sup>2</sup> Criminal Justice System Statistics Quarterly, December 2019, Ministry of Justice

<sup>3</sup>

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/adhocs/008964dataonconfidenceinthecriminaljusticesystemyearsendingmarch2008tomarch2018crimesurveyforenglandandwales>

<sup>4</sup>

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/adhocs/010285dataonconfidenceandawarenessofthecriminaljusticesystemfromyearendingmarchvaryingyearscrimesurveyforenglandandwales>

<sup>5</sup> *Public Confidence in Sentencing and the Criminal Justice System*, 7 August 2019, The Sentencing Council.

<sup>6</sup> A 2016 YouGov poll asked, 'What do you think should be the main purpose of sending people who have committed a crime to prison?'. The results indicate that there is no clear consensus on what those surveyed feel is the main purpose of a prison sentence. 29% said the sentence should be to punish the criminal, with 28% indicating the purpose should be to rehabilitate, followed by acting as a deterrent (21%) and to ensuring violent criminals are off the street (19%).

<sup>7</sup> Deliberative polling is a method of providing some members of the public with more information on an issue and then measure attitudes before and after, noting any changes in opinion. This is often an experimental approach which involves a random assignment to issues and the quality and type of information about it provided, any differences in opinions or attitudes can therefore be attributed to the extra information.

summary offences made up 83% of all offending, with a further 16% being triable-either way<sup>8,9</sup>. In 2018/19, around 80% of those who were convicted or cautioned had already received at least one previous conviction or caution. More can be done to tackle the causes of much offending, particularly where it is driven by drug and alcohol misuse or mental health issues, which are especially associated with low-level and repeat offending.

9. Intervention is needed to improve judicial and public confidence in community sentences. In research conducted for the Sentencing Council in 2019<sup>10</sup>, participants were asked to discuss the statement 'Community sentences are a soft option'. Participant views depended on the type of offence. Whilst most agreed that a community sentence could be an appropriate option for less serious offences, some felt they were always a soft option. Few participants knew that a community sentence could include work related to the offence or spoke about rehabilitation or restorative justice.
10. This IA summarises those legislative measures in the PCSC Bill related to sentencing, custodial release, probation and the youth justice system which tackle the issues outlined above. Some measures have substantial impacts and, where this is the case, detailed IAs have been prepared. Further details on abolishing automatic halfway release for certain serious adult offenders, increasing the time adults convicted of sexual offences and sentenced to a Sentence for Offenders of Particular Concern must spend in prison, reforming youth Detention and Training Orders, simplifying Out of Court Disposals, increasing the maximum penalties for certain driving offences and introducing a new road traffic offence, and changing penalties for assaulting emergency workers have therefore been set out in separate IAs.
11. The rest of this overarching IA explains the underpinning policy rationale and objectives and describes the key stakeholders who would be affected. It then provides an overview of the impact of each of the proposals on society, including both the monetised and non-monetised impacts.

## C. Overall Policy Rationale and Objectives

12. The conventional economic approaches to government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules) where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more needy groups in society).
13. Except for proposed reforms to the criminal records regime, the overarching motivation for the measures detailed in this IA is one of equity. The measures outlined in this IA propose reform to sentencing, custodial release, probation and the youth justice system that will provide greater public protection, increased public confidence and more robust interventions to prevent reoffending and support rehabilitation.
14. Too many serious and dangerous offenders are released too early from custody. Emergency legislation in the form of the TORER Act, as well as a more comprehensive piece of counter-terrorism sentencing legislation, was introduced to address this issue for terrorist offenders earlier in 2020. And while secondary legislation pushed back the automatic release points for some serious sexual and violent offenders, we have not fully addressed this issue for this cohort. The PCSC Bill's proposals for serious sexual and violent offenders will ensure that they spend longer in prison and serve a sentence that reflects their crime. It will also ensure that there is a mechanism for those who become more dangerous while in custody but are serving a standard determinate sentence to be referred to the Parole Board rather than being automatically released before the end of their sentence. If the Board does not consider they could be safely managed in the community, they can remain in custody, if necessary, until the end of their sentence. Therefore, the measures in the PCSC

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<sup>8</sup> Criminal Justice System Statistics Quarterly, December 2019, Ministry of Justice.

<sup>9</sup> 'Summary Offences' are less serious cases where the defendant is not usually entitled to trial by jury. They are generally proceeded in the magistrates' court. 'Either-way' offences are more serious and can be proceeded in a magistrates' court without a jury or tried before judge and jury in the Crown Court.

<sup>10</sup> <https://www.sentencingcouncil.org.uk/wp-content/uploads/Public-Knowledge-of-and-Confidence-in-the-Criminal-Justice-System-and-Sentencing.pdf>

Bill will ensure a more consistent approach to the release of serious and dangerous offenders from custody.

15. With respect to non-custodial sentences, we know that a well-structured community order can have a more significant impact than a short custodial sentence, offering better outcomes for offenders and the public<sup>11,12</sup>. Improving provision of effective non-custodial sentencing options will expand public confidence, including through capitalising more fully on Electronic Monitoring technology.
16. Drug and alcohol misuse are associated with offending, particularly low-level repeat offending. Whilst we have some routes available to help treat and manage these needs in the justice system, there have been too few options available to sentencers and not enough confidence in the quality of these services. Lack of employment is a barrier to rehabilitation after release from custody and the reform to the criminal records regime will tend to provide greater employment opportunities for ex-offenders in England and Wales.
17. The youth justice proposals outlined in the PCSC Bill will give the courts the tools they need to ensure that children<sup>13</sup> aged 10-17 can be diverted from custody into stronger high-end community sentences to effectively manage behaviour in the community. In the most serious cases, where custody is necessary for public protection, the proposals will ensure that custodial sentences work fairly and properly reflect the culpability of a child and the seriousness of their offending.

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

18. A list of the main groups and stakeholders who would be affected by the measures described in this IA is shown below:
  - HM Courts and Tribunal Service (HMCTS) of England and Wales
  - Scottish Courts and Tribunal Service (SCTS)
  - Legal Aid Agency (LAA) of England and Wales
  - Scottish Legal Aid Board (SLAB)
  - Judiciary of England and Wales
  - Judiciary of Scotland
  - Crown Prosecution Service (CPS) of England and Wales
  - Crown Office and Procurator Fiscal Service (COPFS) of Scotland
  - Sentencing Council of England and Wales
  - Scottish Sentencing Council
  - HM Prison and Probation Service of England and Wales, which includes both the Prison Service (HMPPS-Prison Service, or just 'prison services') and the National Probation Service (NPS, or just 'probation services').
  - Scottish Prison Service (SPS, included in the term 'prison services' unless otherwise specified)
  - Youth Custody Service (YCS) of England and Wales
  - Youth Offending Teams (YOTs) of England and Wales
  - Parole Board of England and Wales
  - Parole Board for Scotland
  - Electronic Monitoring Service (EMS)
  - Police Service of England and Wales

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<sup>11</sup> See, e.g., [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/706597/do-offender-characteristics-affect-the-impact-of-short-custodial-sentences.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/706597/do-offender-characteristics-affect-the-impact-of-short-custodial-sentences.pdf)

<sup>12</sup> See, e.g., [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814177/impact-short-custodial-sentences.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814177/impact-short-custodial-sentences.pdf)

<sup>13</sup> In this IA, the terms 'child' and 'children' refer to young people aged 10-17 who are covered by the youth justice system.

- National Health Service (NHS), both NHS-England and NHS-Wales
- Criminal Justice Social Work (CJSW) of Scotland
- Ministry of Justice (MoJ)
- Disclosure Barring Service (DBS) of England and Wales
- Victims
- Offenders and their families
- Local Authorities and local service providers
- The UK economy
- The public

## E. Description of Proposed Measures

19. To meet the government's policy objectives, this IA assesses the following options:

- **Option 0: Do nothing: Make no changes to the current sentencing framework.**
- **Option 1: Implement the PCSC Bill measures for the release of serious and dangerous offenders, for improving the custodial sentencing framework for children, for strengthening community sentences, for reform of the criminal records disclosure regime and for the simplification of the out of court disposal system as detailed in this impact assessment.**

20. Option 1 is the preferred option as it best meets the government's policy objectives.

### Option 0

21. Under this option, no changes would be made to the current sentencing framework. As a result, the various problems identified above would remain.

### Option 1

22. Option 1 consists of both new legislative measures and changes to legislation which clarify and resolve legislative inconsistencies. Those measures which clarify and resolve inconsistencies are listed in Annex A. The core legislative measures which are considered within this IA are:

- Abolishing automatic halfway release for certain serious offenders:** This measure will require offenders sentenced to a standard determinate sentence (SDS) of between 4 and 7 years for certain sexual or violent offences (where that offence attracts a maximum penalty of life) to serve two-thirds of their sentence in custody instead of half. It will also enshrine in primary legislation the changes already introduced whereby prisoners who receive a standard determinate sentence of 7 years or more for a violent or sexual offence that attracts a maximum life sentence must serve two-thirds in custody. Additionally, young offenders sentenced under section 250 of the Sentencing Act 2020 to 7 or more years for the same specified offences (that apply to adults who get an SDS of between 4 and 7 years) will now also be required to serve two-thirds of their sentence in custody instead of half.
- New power to prevent the automatic early release of prisoners who become a public protection concern:** This measure will ensure that prisoners who subsequently become dangerous, or whose dangerousness is subsequently identified, following conviction and sentencing, are no longer subject to automatic early release but are first assessed by the Parole Board. This new power will apply to all offenders (including serving prisoners) serving an SDS who are subsequently assessed to pose a serious threat to the public or national security. The power will also apply to young offenders sentenced under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or its replacement section 250 of the Sentencing Act 2020 who turn 18 before the halfway point of their sentence.

- c. **Whole life orders (WLOs) for those who murder children:** This measure will expand the existing criteria for WLOs, so that the premeditated murder of a child by an adult aged 21 or older should have a WLO when it comes to a court passing sentence as its starting point.
- d. **WLOs for those aged 18-20 in exceptional circumstances:** This measure will make it possible for judges to impose WLOs on offenders aged 18 to 20 in exceptional and serious circumstances. Currently, WLOs can only be imposed on offenders aged 21 and over.
- e. **Longer minimum terms for discretionary life sentences:** This measure will change the way in which the starting point for discretionary life sentence minimum terms (the minimum time that must be served in custody before the prisoner is considered for release) is calculated. The change will require the courts to base the minimum term upon some portion of the notional determinate sentence for the offence, 100% of the appropriate custodial term in the case of serious terrorist offenders and two-thirds of the appropriate custodial term in other cases. This will be instead of half of the notional term of a determinate sentence as is taken as a starting point, as at present. This will apply to discretionary life sentences given to both adults and children.
- f. **Changes to the minimum term starting points for murder committed as a child:** This measure will amend the tariff starting points for murder committed by children under the age of 18. Currently, the starting point for Detention at Her Majesty's Pleasure (DHMP) sentences is a fixed 12 years in all cases. Under this measure, children's starting points will depend on the age of the child and seriousness of the offence. Children will be divided into three age groups: 10 – 14 years old, 15 – 16 years old and 17 years old, and will be subject to starting points based on 50%, 66% and 90% of the adult equivalent starting point respectively.
- g. **Changes to tariff review eligibility of sentences for murder committed as a child:** Restrictions will be introduced to remove eligibility for continuing reviews past the age of 18. Those sentenced to DHMP will therefore be eligible for only a single review at the midway point of their sentence and only be eligible for further reviews if they are under 18. Restrictions will be introduced to remove eligibility for any tariff reviews for those sentenced at age 18 or above.
- h. **Increasing the time sex offenders serving a Sentence for Offenders of Particular Concern (SOPC) must spend in prison:** This measure will ensure that all those who receive a SOPC can only be released, at the earliest and at the discretion of the Parole Board, after having served two-thirds of their custodial term rather than half of the term as at present. This already applies in the case of terrorist offenders and will ensure consistency in release provisions for the SOPC.
- i. **Reform youth Detention and Training Orders (DTOs):** This measure will reform the DTO system for youth to allow courts to pass any length of sentence between 4 and 24 months. Removing the fixed lengths means that time spent on remand or bail will only be deducted from the custodial part of the sentence and children will spend the intended amount of time in the community. This measure will amend how early release eligibility is calculated when serving consecutive sentences.
- j. **Simplifying the Out of Court Disposals (OOCs) Framework:** This measure will introduce a two-tier model for OOCs and replace the six adult disposals commonly used at present. The community caution will involve community resolutions and the diversionary caution will largely model the framework for existing conditional cautions. In both disposal options, conditions will be required and could be rehabilitative, reparative, punitive or restrictive. The proposed simplification provides opportunity for early intervention to address the underlying issues that contribute to offending behaviour.
- k. **Problem-Solving Courts (PSCs):** This measure will establish PSCs, providing a regime that offers support for offenders sentenced to a community order of any type. Judges will be able to initiate breach proceedings at review hearings instead of this being the sole responsibility of the Probation Service. There will be an expansion of drug testing beyond Drug Rehabilitation Requirements (DRRs) to incorporate offenders who may not be dependent or do not reach the threshold for a DRR but whose drug misuse drives their offending behaviour. It will also enable the use of immediate short custodial stays as a sanction for non-compliance with the community order given. Such courts will be piloted initially.
- l. **Statutory minima for repeat offenders:** This measure will amend the criteria for passing a sentence below the minimum term for repeat offences, including "third strike" domestic burglary, "second strike" possession of a knife or offensive weapon and "third strike" importation of a Class A drug, with the aim of raising the threshold for departing from the minimum term. The



judicial discretion to depart from the minimum will become something that is done in exceptional circumstances in these repeat offence cases. This measure will also apply to the offence of threatening with a knife or offensive weapon.

- m. **Road Traffic Offences:** A new offence of causing serious injury by careless driving will be created, meaning that those who drive carelessly resulting in a person suffering serious injury will be liable to prosecution for a specific offence which carries a maximum penalty of 2 years in custody rather than under the offence of careless driving which has the maximum penalty of a fine. In addition to this, the maximum penalty for causing death by dangerous driving will be increased from 14 years to life imprisonment, and the maximum penalty for causing death by careless driving whilst under the influence of drink or drugs will increase from 14 years to life imprisonment.
- n. **Doubling the maximum penalty for assaulting an emergency worker:** This measure seeks to ensure that emergency workers are provided with enough protection to enable them to carry out their duties, and the maximum penalty reflects the severity of these offences. The current maximum penalty for the offence of common assault or battery committed against an emergency worker is 12 months' imprisonment. The maximum penalty will be increased from 12 months to 2 years' imprisonment.
- o. **Abolishing Senior Attendance Centres (SACs):** This measure will abolish SACs and remove them from the menu of sentencing options available to sentencers. SAC requirements are rarely used, in part because they are not available in all regions. Their removal will promote simpler and more consistent sentencing, with the needs of young adult offenders better met by other available requirements.
- p. **Strengthening Supervision Powers for Probation Practitioners:** This measure will clarify the extent of supervision powers available to Probation Practitioners by creating a power for Practitioners to require offenders to attend appointments whilst a Community Order is in force or during the supervision period of a Suspended Sentence Order.
- q. **Unpaid work consultation duty:** This measure will create a new statutory duty requiring probation providers to consult key local and regional stakeholders on the design and delivery of Unpaid Work. Community orders and their requirements should benefit the local community in which they are served because Unpaid Work placements should be responsive to local need.
- r. **Polygraph testing for service and repatriated offenders:** This measure will enable polygraph testing to be added as a licence condition for individuals convicted of sexual offences or domestic abuse offences subject to release on licence, who have been convicted under service law, or who are repatriated to England and Wales from overseas. This will ensure that the management of those offenders will benefit from the polygraph and will put beyond doubt who should be made subject to testing. It will also make it consistent with the legislation that applies to terrorist offenders.
- s. **Increased flexibility of electronic monitoring on community sentences:** This measure will increase the maximum permitted curfew hours from 16 hours a day to 20 hours a day, not exceeding the current weekly maximum of 112 hours, to enable increased flexibility of Electronic Monitoring on community sentences.
- t. **Changes to Multi-Agency Public Protection Arrangement (MAPPA) provisions:** This is a set of measures to improve the management of terrorist and other offenders who may pose a terrorist risk. These measures will: (1) ensure that specified terrorist and terrorist-connected offenders automatically fall under MAPPA, putting this on a mandatory statutory footing; (2) provide a clear discretionary route for those who are assessed as posing a terrorist risk, whether or not their index offence is for terrorism, so that they may be MAPPA managed; (3) enable the police to carry out a personal search of terrorist and terror-connected offenders where they have a licence condition imposed which requires them to submit to such a search (Home Office measure); and (4) expressly grant Duty to Co-operate agencies the power to share information under Part III of the Data Protection Act 2018 under MAPPA.
- u. **Amend the provisions for remands to youth detention accommodation:** The 'real prospect' test and the 'necessity condition' will be strengthened, so that remand in Youth Detention Accommodation can only be imposed for the most serious cases, where a custodial sentence appears to be the only option and the risk posed by the child cannot be safely managed in the community. The amended tests will reiterate the court's statutory obligation to consider remand

to local authority accommodation as a first step and prompt the courts to consider the welfare and best interests of the child when making remand decisions. It will be a statutory requirement for the courts to record the reasons for their decision. The Bill will also address the courts' current lack of power to remand a child to local authority or youth detention accommodation, in cases where an order has been imposed previously.

- v. **Pilot stronger high-end youth community sentences:** This measure will double the maximum possible length of the extended activity requirement element of the Youth Rehabilitation Order with Intensive Supervision and Surveillance (ISS) from 6 months to 12 months and add a location monitoring requirement as a mandatory element of the ISS requirement.
- w. **Location monitoring requirements on Youth Rehabilitation Orders (YROs):** This measure will add the option of a standalone location monitoring requirement to the YRO.
- x. **Criminal records:** This measure will provide for some custodial sentences of over 4 years to become spent after a certain period. This means that, for most purposes, when asked about their criminal record, ex-offenders would not have to disclose the conviction if that period had expired. The existing rehabilitation periods for certain other disposals given or imposed on conviction are also shortened. This will reduce the number of ex-offenders required to disclose their convictions as part of basic checks for employment and other activities. There is no change to the requirements around standard or enhanced checks.
- y. **Increase maximum daily curfew hours for YROs:** The maximum number of curfew hours for YROs with curfew requirements will be raised from 16 to 20, whilst retaining the weekly maximum of 112 hours. Though achieving the same result as measure (s), this is a separate legislative measure.
- z. **Abolish the Reparation Order:** The Reparation Order will be abolished as it is used very infrequently and other more effective and widely-used avenues for reparation in the youth justice system exist.
- aa. **Clarify that operating a secure school can be a charitable activity:** This measure will clarify in law that operating a secure school can be a charitable activity and therefore that charities can operate secure schools within both their charitable objects and the government's secure schools vision. Because secure schools will be established as secure 16 to 19 academies, the measure will define secure schools in this way. By virtue of the Charities Act 2011, academies are "exempt charities" which do not need to register with the Charity Commission. As such secure schools will also be "exempt charities".
- bb. **Maximum period of Electronically Monitored curfew:** This measure will increase the maximum period of EM curfew from 12 months to two years, providing greater flexibility for curfew as part of a community sentence, and bringing it in line with the maximum for exclusion requirements.

## F. Cost and Benefit Summary

- 23. This overarching IA summarises the main monetised and non-monetised impacts of the above legislative measures on individuals and groups in the UK. The costs and benefits of each legislative measure are compared to the "do nothing" option. IAs place a strong emphasis on valuing costs and benefits in monetary terms. However, there are often important aspects of a policy that cannot readily be monetised – e.g. the effects on particular groups in society or changes in equity and fairness.
- 24. These impacts have been assessed using HM Treasury guidance. To make our estimates for each measure comparable, we have adopted the following conventions:
  - Monetised costs and benefits are stated in current, that is 2020/21, prices;
  - The Net Present Value (NPV) of each measure has been calculated for a ten-year period from the expected implementation date using a 3.5 per cent discount rate; implementation for reforms is assumed to be autumn 2021;
  - Population volumes greater than 100 have been rounded to the nearest 50, volumes less than 100 have been rounded to the nearest 5.

- Where appropriate, 20% optimism bias has been applied;
  - Unless otherwise stated, the annualised costs or savings are those which would be achieved in 'steady state' (i.e. when the measure is fully in operation).
25. Certain impacts have been assessed qualitatively because the expected effects are likely to be negligible or are otherwise unable to be quantified as the magnitude or direction of change is unknown. The measures where this applies most are as follows:
- **Measure (c) – WLOs for those who murder children.** WLOs are an exceptionally rare sentence, with fewer than 5 given out per year on average over the past decade. Analysis of internal management information provided by the Home Office suggests that there are around 10 adults who commit the murder of a child per year on average. Further, changing from a mandatory life sentence to a whole life order would add an additional 12 years, on average, to the length of time served for such offenders. While this measure is expected to increase the number of WLOs by a maximum of about 10 offenders per year, the effect on the prison service will only be felt well beyond the 10-year period covered by this IA. For this reason, no impacts are stated here.
  - **Measure (d) – WLO on those aged 18-20 in exceptional circumstances.** Over the past decade, an annual average of about 40 offenders aged 18 to 20 were sentenced for murder. While this measure could be expected to increase the number of WLOs rather than life sentences with the possibility of discretionary release among this cohort, it is not possible to estimate by how much given the narrowness of the circumstances articulated in the measure and the fact that it will remain subject to judicial discretion. Moreover, as with measure (c), the effect on the prison service will be well beyond the 10-year period covered by this IA. For this reason, no impacts are stated.
  - **Measure (e) – Longer minimum terms for discretionary life sentences.** The average minimum term (also known as a tariff) for discretionary life sentences is estimated to be 11 years. By changing the tariff calculation and making the tariff longer, substantial impacts will not be felt until 2032/33. As this is an average, there may be small impacts felt before this point, but they will likely be negligible. The steady state impact is estimated to be around 80 additional prison places, which will be reached in 2035/36. Prison construction will be required within the 10-year analysis period of this IA to accommodate offenders from when impacts will be felt in 2032/33. Only these transition costs are included in this IA.
  - **Measure (f) – Changes to the minimum term starting points for murder committed as a child.** Judicial discretion to increase or decrease the tariff from the starting point will be retained under this measure. This means an increase in the starting point will not necessarily translate into a similar increase in the minimum tariff set, which, in turn, is not directly related to time served in custody.

Internal analysis shows that the courts routinely already issue tariffs above the current starting point. DHMP tariffs between 2011 and 2019 ranged from 5 to 27 years, with the majority (around 85%) being between 12 and 20 years, around a third were for 17 years or more, and less than 5% were for 23 years or more. Given the increase in starting points under this measure for older children, it seems likely that it will lead to some children serving longer in custody than they otherwise would have. However, some children, particularly young children and those committing the least serious category of murder, may spend less time in custody than they otherwise would have.

Between 2015 and 2019, there have been on average 27 sentences per year for murder committed by a child, though this has fluctuated, with 49 sentences in 2019. Therefore, the overall impact on prison places is likely to be relatively small given the low volumes involved. There would be minimal impacts within the first 10 years of the policy as most tariffs are over 10 years, and all impacts would be felt in the adult prison estate.

- **Measure (g) - Changes to tariff review eligibility of sentences for murder committed as a child.** Analysis of internal management data suggests that of offenders with a tariff review since 2010, fewer than 10% have applied a second time. Even where applications result in a tariff reduction, release is still dependent on the Parole Board's decision. Therefore, we anticipate minimal impact from this policy. Given that the majority of DHMP sentences are over 10 years,

we expect negligible impact on prison places within the next 10-years, with some small savings as a result of fewer applications for review in this period.

- **Measure (l) - Statutory minima for repeat offenders.** It has not been possible to quantify the impacts of this measure since the courts will still retain discretion to determine whether it would be just to impose the minimum term, having regard to the circumstances of the offence and the offender. However, the aim is to raise the threshold for passing a sentence below the minimum term for repeat offenders. Due to current data limitations, it has not been possible to identify the number of offenders in scope (generally those with previous convictions for certain offences).
- **Measure (q) – Unpaid work consultation duty.** The volumes of unpaid work requirements are set by the courts; our measure will not impact on these volumes but rather focus on how unpaid work is delivered, for instance the types of work and projects involved. Consequently, any additional costs are likely to be low and would be for probation leaders to consider within the context of available budgets.
- **Measure (r) – Polygraph testing for service and repatriated offenders.** Data shows that there are likely to be a stock of no more than 20 domestic abuse and sexual offenders who are either repatriated or who have been sentenced in a military court. Of those individuals, it is not possible to say how many will be eligible for polygraph testing. Indeed, it is possible that very few, if any, will meet all the necessary eligibility criteria. Nevertheless, resources for testing such a small number of cases already exists within the NPS, therefore no additional resource is required for this change in legislation.
- **Measure (s) – Increased flexibility of Electronic Monitoring on community sentences.** Whilst the maximum number of daily hours will increase, the weekly total of 112 hours and the maximum duration of a curfew order will be unchanged. Therefore, we do not anticipate additional costs as a result of this change nor will any other related impacts be other than negligible.
- **Measure (t) – Changes to MAPPA provisions.** The amendments to MAPPA provisions are expected to have no or negligible impacts. The measures affect those who are already, or are expected to be, MAPPA managed, so no new cases will be brought into the NPS and related services. Personal search measures may have an impact on OMs who will need to decide whether a licence condition should be recommended, and review on a regular basis where it is imposed; however, this will be in line with considering other licence conditions and so cost implications are likely to be negligible. The Duty to Co-operate measures reflect sharing of information cannot be costed. For these reasons, no impacts are stated in this IA.
- **Measure (u) - Amend the provisions for remands to youth detention accommodation.** The legislative measures in this Bill form one part of a more significant piece of work to review the current use of remand for children. It has not been possible to quantify the impacts of these measures since they are entirely dependent on judicial discretion, however, the aim is to ensure that remand to youth detention accommodation is used only when necessary. If successful, this could lead to a reduction in youth custody places, with corresponding savings for YCS, though alternatives such as Local Authority Accommodation or increased use of conditional bail packages are likely to incur costs elsewhere. A reduction in the use of custodial remand overall would reduce exposure to the custodial environment and avoid detrimental disruption to children's lives, which can be criminogenic, and therefore provide long-term benefits.
- **Measure (y) - Increase maximum daily curfew hours for YROs.** Although separate legislative measures, both measure (s) and measure (y) achieve the same result for both adults and youth. Nevertheless, as with measure (s), the maximum number of daily hours will increase, but the weekly total of 112 hours and the maximum duration of a curfew order will be unchanged. Given the nature of these changes, we do not anticipate any substantive impacts to result from this measure.
- **Measure (z) - Abolish the Reparation Order.** Reparation orders are the least-used disposal, with only 84 given in 2018/19. Other more effective and widely-used avenues for reparation in the youth justice system exist and we do not anticipate substantial impacts as a result of this change.

- **Measure (aa) – Clarify that operating a secure school can be a charitable activity.** This measure will be limited to secure schools and will not impact other institutions involved in justice or education provision. It is important to clarify that we are not establishing secure schools through this measure, we are simply clarifying that running them will be a charitable activity. As such, the impact on wider society of this measure is likely to be limited.

26. The measures listed in Annex A clarify and resolve legislative inconsistencies. Their impacts have not been estimated, as any impacts are expected to be negligible, and are therefore not otherwise described in this IA.
27. Where possible, low, best (or central) and high estimates have been provided to better understand the types of uncertainties present in the measures. Low scenarios represent variation in modelling assumptions which result in the least overall net present value for the specific profiled policy, while high scenarios represent assumption variations yielding the highest net present value. In policies with less variation in the impacts of assumptions, only a best (or central) estimate is provided.

**Option 1: Implement the PCSC Bill measures for the release of serious and dangerous offenders, for improving the custodial sentencing framework for children, for strengthening community sentences, for reform of the criminal records disclosure regime and for the simplification of the out of court disposal system as detailed in this impact assessment.**

**Costs of Option 1**

Monetised Net Present Costs

*HMCTS and LAA*

28. Costs to the HMCTS and LAA are estimated at about £38.5m in total, approximately £25.9m of which will be a consequence of the new driving offence being triable either way, leading to indictments and the higher costs in the Crown Court (or the Scottish equivalent, see the next paragraph). The remaining costs will result from the changes to sentencing for assaults on emergency workers, cases which on balance would be more likely to be heard in Crown Court and therefore face higher costs, and the problem-solving courts pilot. These figures include around £8.7m for additional legal aid costs in total.

*SCTS and SLAB*

29. Total costs of around £4.3m will accrue to the SCTS to deal with the greater number of cases going through the Scottish courts as a result of the new driving offence of causing serious injury by careless driving. Additionally, total costs of around £3.5m will accrue to the SLAB for legal aid costs for the increased caseload in the Scottish courts as a result of the new offence.

*HMPPS-Prison Service*

30. It is estimated that this option will result in a total increase in the adult prison population of around 700 offenders in steady state by 2028/29 although this impact will begin to be felt from 2021/22 with just over 200 additional prisoners – largely resulting from measures changing sentencing of assaults on emergency workers and driving measures. Changes to automatic release for children who offend means an addition of roughly 50 adult prisoners by 2030/31 who would likely have been sentenced as children.
31. The total costs to prisons for all the measures in this IA are estimated to range from a low of £185.9m to a high of £232.6m. Prison running costs are driven by an increase in volumes of offenders going to prison for assaults on emergency workers, accounting for between £66.2m and £104.0m, as well as changes to the automatic release point for offenders serving an SDS of between 4 and 7 years, costing between £63.6m and £70.3m. These costs may vary depending on the type of accommodation constructed and market conditions.
32. To accommodate the additional prison demand under the measures outlined in the PCSC Bill, there is an immediate need of just over 300 prison places in 2021/22 to house an estimated increase due to changes in how driving offences and assaults on emergency workers are sentenced. It is assumed

that the construction cost per each additional new place is £250,000. The total transition cost for the construction of additional prison capacity under all measures is therefore estimated to be between £165.8m and £203.9m.

#### *SPS*

33. Both changes in maximum penalty for driving offences and the new offence of causing serious injury by careless driving are estimated to cost around £1.2m for running costs to the SPS due to fewer than 5 prison places per year being required.

#### *YCS*

34. An increase in the youth custody population of less than 50 children in steady state by 2023/24 resulting from reform of the DTO will accrue total costs to the YCS of between approximately £38.6m to £61.4m.

#### *NPS*

35. Option 1 is estimated to lead to total costs to the probation service of between £67.5m and £84.9m. Most of this cost comes from the supervision of offenders convicted of assaults to emergency workers, with costs ranging from a low of £41.0m to a high of £58.5m. The rest is due to those measures which strengthen probation officer powers and the supervision of offenders on longer curfews, though minimal costs also arise from the removal of SACs, and the piloting of problem-solving courts. The increased probation powers will lead to greater flexibility and authority, namely so that probation officers can provide additional supervision in the community and on suspended sentence orders.

#### *YOTs*

36. There is estimated to be an increase of between 200 and 450 children on ISS in the community, in steady state by 2024/25, and an additional 30 to 50 children under YOT supervision post release from DTO, at a cost of between £24.5m and £47.7m, with £47.7m as the central estimate.

#### *EMS*

37. The combined EM costs will vary depending on the combination of policies taken forward in the future, offender characteristics and sentencing decisions. An estimated additional 1,050 to 3,465 offenders (2,372 in the central estimates) will be monitored and supervised using electronic tagging at any point in time under the measures proposed in the PCSC Bill. This is estimated to cost an additional £12.9m to £30.2m, with £17.8m as a central estimate. The costs are largely driven by the increase of the maximum period of EM curfew to 2 years, with costs ranging from £10.7m in the low scenario to £22.5m in the high scenario. There are also costs associated with changes to sentencing of assaults on emergency workers, with a small amount of cost associated with increased use of electronic monitoring technology for youth offenders and licence procedures associated with the new driving offences.

#### *OOCD system, including the Police Service, CPS and HMCTS*

38. The total costs to the OOCD system will be £129.8m. Of these costs, £90.8m is attributed to the police service for operational costs of administering a larger number of conditions associated with disposals, £8.8m to the CPS to handle breaches of conditions and the remainder to HMCTS for processing breach actions. For further details, please see the separate IA on reforms to the OOCD system.

#### *DBS*

39. Reform to the criminal records disclosing system will require about £0.1m to update the DBS IT systems which generate certificates.

#### *MoJ*

40. Costs of around £1.5m will accrue to the MoJ, largely for pilot evaluations, monitoring and management of rollout of the measures. These costs should be treated as a low estimate as they only cover pilots already scoped for implementation pursuant to sentencing measures in the PCSC Bill – namely, strengthening youth community orders and problem-solving courts.

#### Non-Monetised Costs

##### *HMCTS*

41. Following simplification of the OOC system, it is unclear whether the cost of enforcing any court fines that are imposed because of conditional caution non-compliance under the revised model will differ from the current system and lead to additional costs.

##### *Judiciary of England and Wales; Judiciary in Scotland/COPFS*

42. Many of the legislative measures in PCSC Bill will be given effect by the judiciary. There will be an, at present, unquantifiable cost associated with propagating guidance, training and promoting uptake of new sentencing rules.

##### *HMPPS-Prison Service*

43. The longer time spent in custody resulting from abolishing automatic halfway release, SOPC reforms, and reforms to discretionary life sentencing could lead to prison instability as offenders serving the same sentence arriving at different times will face different release points. There is also a risk of having offenders spend longer in prison and a larger population may compound overcrowding (if there is not enough prison capacity), while reducing access to rehabilitative resources and increasing instability, self-harm and violence.
44. Reforms to the sentences given to children who commit murder are expected to affect judicial behaviour which could have knock-on effects on volumes of children in custody. Judicial discretion to increase or decrease the tariff from the starting point will be retained under this measure, meaning an increase in the starting point will not necessarily translate into a similar increase in the minimum tariff set. It has not been possible to quantify this impact, however, there would only be minimal impacts within the first 10 years of the measure as most tariffs are over 10 years. We assume that all children receiving a life sentence for murder would transition into the adult estate regardless of this change; therefore, impacts are anticipated to fall on the adult estate.
45. It will be operationally possible for any offender serving an SDS to be subject to the provision which will enable the Secretary of State to refer an offender who has become dangerous to the Parole Board rather than be automatically released early (at the halfway or two-thirds point). However, we expect this power to be used rarely, and only in cases where the Secretary of State has reasonable grounds to believe that the prisoner, if released at their automatic release point, would present a risk of serious harm to the public, or a national security threat, by committing a serious sexual, violent or terrorist offence. There may be an increased risk that other prisoners could become radicalised or dangerous due to the greater time in custody for the affected individual affording more time for further proselytising or dangerous activity to be conducted in the prison. However, a case will only be referred to the Parole Board, and be held in prison for longer, where it is assessed that the risk the offender poses cannot be safely managed in the community.

##### *NPS*

46. The increase in power of supervision for offender managers will lead to a corresponding increase in time spent supervising offenders. Were this to apply to all offenders, a substantial increase in probation staff would be needed. However, the powers are intended to be used only in exceptional circumstances. To ensure the powers are not overused, robust operational guidance needs to be communicated to staff.

##### *Parole Board of England and Wales; Parole Board for Scotland*

47. Amendments to the maximum tariff for driving measures will likely increase the imposition of life sentences to a small extent. Offenders sentenced to life imprisonment have Parole Board hearings

once they have reached the minimum term imposed. Therefore, if an offender received a life sentence, there would be a resource impact on the Parole Board for England and Wales and the Parole Board for Scotland to accommodate changes to sentencing of driving offences. Similarly, the power to refer SDS offenders who become dangerous to the Parole Board will have a resource impact on the Parole Board for England and Wales, since these cases would otherwise be automatically released. However, we predict only a small number of offenders to be affected, that is to receive a life sentence after the maximum sentence is increased, hence the costs to the Parole Board for England and Wales and Parole Board for Scotland are negligible.

#### *YOTs*

48. Some children will spend longer on the community element of their DTO due to changes to how time on remand is considered. The size of impact will be driven by the number of children on remand or qualifying bail and the length of time spent on remand or bail. Not all children will spend longer on the community element under this option, only those who previously would have seen their DTO sentence length reduced because of accounting for time spent on remand. It has not been possible to quantify these costs. We do not have data on the numbers of children and the length of reduction resulting from time spent on remand or qualifying bail to quantify these costs.

#### *EMS*

49. A longer duration on electronic monitoring resulting from the measures concerning the use of electronic monitoring could increase the level of breaches and the consequential cost the CJS. While, management information indicates there is a negligible increase in electronic monitoring violations on curfews of between 12 months and 18 months, it is unclear how an increase in the maximum curfew period to two years will lead to greater incidence of breach.

50. It is assumed that the addition of location monitoring to the YRO will be used predominantly with children who would have received another requirement involving electronic monitoring (i.e. curfews or exclusion zones). However, if a significant number of children receive location monitoring who would not have received any form of electronic monitoring, then this could incur additional running costs beyond those estimated. EMS will also incur additional equipment costs if the whole youth ISS caseload receives GPS instead of radio frequency tags pursuant to the pilot of high-end youth community sentences.

#### *Multi-Agency Public Protection Arrangement related agencies including NPS, HMPPS-Prison Service and the Police Service*

51. Measures in the PCSC Bill will make an express avenue for terrorist risk offenders to be eligible for MAPPA arrangements, make information sharing easier, and enable a search licence condition to be imposed on terrorist offenders. An offender will be required to submit to a personal search which will impact on police and will require review and could therefore add costs to NPS as part of management of the offender on licence, as well as other MAPPA agencies. Such costs, however, are expected to be negligible.

#### *Sentencing Council of England and Wales; Scottish Sentencing Council*

52. Any measures which lead to changes in sentencing legislation will trigger analytical work and guideline creation for the Sentencing Council of England and Wales, and the Scottish Sentencing Council for those measures which apply there. The full extent of such required activity is unquantifiable.

#### *NHS-England/NHS-Wales*

53. Health care in prisons is the responsibility of the NHS (NHS-England and NHS-Wales, in England and Wales respectively). Longer time in custody resulting from the proposed reforms to whole life orders, discretionary life sentences, abolishing halfway release for certain offenders, and SOPC reforms may increase the care requirements, and hence costs, for aging prisoners. While social care is legally the responsibility of the local authority in which the prison is based, in practice this is often contracted to the NHS.



## *Criminal Justice Social Work (CJSW)*

54. If offenders in Scotland were to receive longer custodial sentences for driving offences, then there are likely to be small costs to Criminal Justice Social Work, delivered by Local Authorities, due to offenders spending longer on licence. However, even if a small number of offenders were affected by this measure, we would expect these costs to be negligible.

### *Offenders and their families*

55. Longer time in custody resulting from abolishing halfway release, SOPC reforms, reforms to discretionary life sentencing, and holding dangerous SDS offenders beyond their automatic release date may strain familial and community links, could limit offender motivation for reengagement in rehabilitation, and ultimately increase the likelihood of reoffending. A shorter licence period may inhibit re-integration into society.

56. Furthermore, a longer period spent being electronically monitored may add significant strain into household relationships due to the increased time spent at home, reduced opportunities to further pro-social relationships (e.g. taking children to school) and other activities that promote well-being (e.g. team sports).

## **Benefits of Option 1**

### Monetised Net Present Benefits

#### *HMPPS-Prison Service*

57. Problem-Solving Courts are estimated to confer a net benefit on the prison service of £1.4m by diverting an estimated 600 offenders away from custody in total over the three-year pilot period. This would occur through regular court reviews of community sentence progress, regular and random drugs and alcohol testing where relevant, a graduated use of incentives and sanctions, dedicated probation resource to supervise the cohort, and greater linkage to core support services including health, employment and accommodation.

#### *NPS*

58. All the measures in the PCSC Bill, which result in keeping offenders in custody for longer, reduce the overall amount of supervision required because less time is spent on licence will lead to a somewhat lower annual caseload. At the same time, there will be a small benefit to the probation service through abolishing SACs estimated at around £5.4m. The net present benefit to the probation services of all these measures is estimated to be between £11.0m and £11.4m, with £11.2m as the central estimate.

#### *OOCD system, including the Police Service, CPS and HMCTS*

59. The benefits from fewer HMCTS prosecutions for non-payment plus additional revenue from reparation and fines is estimated to lead to a net benefit of around £13.7m from a simplified OOCD system. All the savings from the changes to the OOCD system will be felt by the HMCTS. For further detail, please see the separate IA on reforms to the OOCD system.

### Non-Monetised Benefits

#### *HMPPS-Prison Service*

60. The establishment of Problem-Solving Courts and the greater use of ISS in YROs should lead to a reduction in the use of custody, although the savings are currently unquantifiable due to uncertainty around the full details of how these measures would be implemented.

#### *NPS*

61. The increase in probation practitioners' power will give greater clarity for probation practitioners in their ability to set meetings with offenders, and for offenders in what they are required to attend. Additionally, the duty to consult in local communities on unpaid work assignments would improve the diversity and range of opportunities to meet offender needs, leading to better rehabilitative outcomes.

#### YCS

62. The creation of stronger high-end community sentences and addition of location monitoring to the YRO could reduce the volume of children receiving a custodial sentence, though at present it is not possible to estimate the judicial use of such high-end sentences rather than custody.

#### *Judiciary*

63. Judicial confidence in the sentencing programme should improve through many of the measures proposed in the PCSC Bill. For example, the judiciary may welcome greater oversight and ability to intervene in rehabilitative programmes under the proposed Problem-Solving Courts, which we will aim to learn through piloting. Improved judicial confidence in community sentences is a factor motivating the increased use of electronic monitoring, for example through the use of ISS in the YRO.

#### *Parole Board of England and Wales*

64. The SOPC reforms should reduce the volume of Parole Board hearings since the first hearing will take place at the two-thirds point rather than halfway through the custodial term. Given the small number of offenders affected by this measure, this benefit is likely to be negligible given the overall volume of Parole Board hearings taking place each year. For this reason, the details of this benefit have not been estimated.

#### *Multi-Agency Public Protection Arrangement related agencies including NPS, HMPPS-Prison Service and the Police Service*

65. Longer time in custody resulting from abolishing halfway release, SOPC reforms, and reforms to discretionary life sentencing may lead to fewer costs for any Multi-Agency Public Protection Arrangements which might have been needed.

#### *Police Forces*

66. Reforms to the OOC system should improve the efficiency of police procedures though the full extent of this cannot be estimated.

#### *Local Authorities and Local service providers*

67. Longer time in custody resulting from abolishing halfway release, SOPC reforms, reforms to discretionary life sentencing, and holding dangerous SDS offenders beyond their automatic release date may lead to shorter duration of community services provided by local authorities and local providers to offenders while on licence.

68. The statutory duty to consult with local stakeholders on the design and delivery of unpaid work will expand links between probation officials and their communities, improving the reparative quality of community orders and further integrating offenders into community affairs. This should benefit the rehabilitative process and strengthen communities.

69. Charitable providers will have the potential to run secure schools as a charitable activity. This broadens the pool of potential providers.

#### *Offenders*

70. It is expected that simplification of the OOC system and the creation of Problem-Solving Courts with their focus on rehabilitative interventions will reduce reoffending though to what extent is yet uncertain because offender behaviour cannot wholly be predicted. Additionally, effective problem-

solving courts will further improve offender behaviour including, where relevant, by reduced drug use, and improved physical and mental health.

71. Increased flexibility in arrangements for electronic monitoring could benefit offenders in supporting transitions to work, and family and civic engagement, thereby reducing reoffending risk and improving public protection.

*Victims & Public*

72. Longer time in custody resulting from abolishing halfway release, SOPC reforms, reforms to discretionary life sentencing and holding dangerous SDS offenders beyond their automatic release date may benefit victims and wider public in that they feel protected for longer through the incapacitating effect.

73. The curfew periods associated with EM may help offenders to break ties with criminal associates and aid rehabilitation. This should contribute to public protection in the immediate term. Moreover, there is some evidence that EM has a short-term deterrent effect on the likelihood of committing crime whilst the offender is tagged suggesting improved public protection.

74. Additionally, the complete package of reforms should improve victim and public confidence in the CJS, particularly the reforms to both adult and youth community sentences and the greater use of electronic monitoring.

75. Reforms to the OOC system should improve victims' experiences and satisfaction with the CJS.

*The UK economy*

76. The proposed reforms to the criminal records regime will mean that some offenders in England and Wales would benefit from improved employment opportunities and that the UK economy would tend to be larger than otherwise. It is not possible to quantify the magnitude of the likely increase in employment or future UK Gross Domestic Product. This increase would have the indirect effect of increasing additional tax revenue collected by HM Revenue & Customs, although increased tax collection is regarded as a transfer payment rather than an economic benefit to society.

Unquantified and Non-monetised Impacts

77. In addition to the impacts of the individual measures described above, the PCSC Bill measures could together affect levels of overall crime through deterrence, incapacitation and rehabilitation. There is, however, limited evidence that the combined set of measures will deter offenders long term or reduce overall crime. Therefore, the combined effect of all the measures proposed cannot be described as a cost or benefit due to limited evidence to indicate the direction or magnitude of change.

78. It is also not possible to quantify third party community bodies that may be affected by the measures proposed. Nevertheless, there will be no burdens placed on them as all the activities generated by these measures will be funded by the MoJ and these organisations are either controlled by, or acting on behalf of, the department in carrying out the activities.

Summary of impacts

79. Table 1 below summarises the main components of net impact of the measures contained in Option 1, the preferred option.

**Table 1 Summary of estimated net present costs and benefits (real prices, 2020/21)**

		Transition	Costs	Benefits	NPV
a) Abolishing automatic halfway release for certain serious offenders	<i>Monetised</i>	Around 250 additional adult prison places will need to be constructed by 2030/31 at a cost of between	An increase in the adult prison population by around 250 in steady state (reached in 2028/29) at a total running cost of	A reduction of around 250 fewer adult offenders under licence supervision in 2030/31 resulting in a total saving to the probation	<u>Adults</u> High: -£138.1m Low: -£125.0m Best: -£131.5m

		<p>£65.2m and £72.1m.</p> <p>Further total construction costs for an additional 50 adult places by 2030/31 over the 10-year period of £11.7m due to changes to youth automatic release.</p> <p>The combined effect would be more than 300 additional prison places for a total cost of between £76.9m and £83.8m.</p>	<p>between £63.6m and £70.3m in the low and high scenarios, with a central estimate of around £67.0m.</p> <p>An increase in adult prison population of around 50 places in 2030/31 due to changes to youth automatic release, with total running costs of around £7.7m in the next 10 years.</p> <p>The combined effect would be more than 300 additional prisoners at a total cost of between £71.3m and £78.0m.</p>	<p>service of between £3.9m and £4.3m over the next 10 years</p> <p>A decrease in the population under licence in the community of around 50 adults in 2030/31 due to changes to youth automatic release, resulting in a total saving of around £0.5m over the next 10 years.</p> <p>The combined effect would be more than 300 fewer offenders on license for a total benefit of between £4.3m and £4.8m.</p>	<p><u>Youth</u> Best: -£18.9m</p> <p><u>Total</u> High: -£157.1m Low: -£143.9m Best: -£150.5m</p>
	<i>Non-Monetised</i>	N/A	<p>Greater demand on prisons and services provided there.</p> <p>Social relations between prisoners and their families could be impaired.</p> <p>Greater demand on the NHS (England/Wales) for prisoner care.</p>	<p>Improved victim and public confidence and protection.</p> <p>Less demand on local authorities and local services.</p> <p>Less need for Multi-Agency Public Protection Arrangements, affecting the probation service, the prison service and the police.</p>	
b) New power to prevent the automatic release of prisoners who become a public protection concern	<i>Monetised</i>	Additional prison capacity to house those staying in custody for longer prior to 2023/24 at a cost of £4.6m	An additional 20 prison places required by 2023/24 though this is estimated to reduce to a steady state of 10 by 2026/27 at a total running cost of £5.2m up to 2030/31.	20 fewer offenders in probation caseloads by 2023/24 reducing to a steady state of 10 fewer by 2026/27 at an overall net saving of £0.5m	Best: -£9.3m
	<i>Non-Monetised</i>	N/A	<p>Greater demand on prisons and services provided there.</p> <p>Social relations between prisoners and their families could be impaired.</p> <p>Greater demand on the NHS for prisoner care.</p>	<p>Improved victim and public confidence and protection</p> <p>Less demand on local authorities and services.</p> <p>Less need for Multi-Agency Public Protection Arrangements affecting the probation service, the prison service and the police.</p>	

c) WLOs for those who murder children	<i>Non-Monetised</i>	Minimal additional prison capacity will be required though not until well after the 10-year period covered by this IA.	Additional prison running costs will be required as the tariff served for child murder will necessarily increase, although not within 10-year period covered by this IA.	Improved public confidence and public protection.	N/A
d) WLOs on those aged 18-20 in exceptional circumstances	<i>Non-Monetised</i>	Minimal additional prison capacity will be required though not until well after the 10-year period covered by this IA. Given likely small volumes, this is expected to be negligible however.	Additional prison running costs will be required, however given the likely small volumes this will be negligible.	Greater public protection through further incapacitation of young adult offenders who are deemed highly dangerous.	N/A
e) Longer minimum terms for discretionary life sentences	<i>Monetised</i>	Construction of prison places to begin in 2030/31. An additional 10 places will be built at a cost of £1.7m. The construction of the other places required is outside of the timeframe assessed in this IA.	Additional running costs will be required as the average length of discretionary life tariffs will be increased through this change, but the impacts are outside of the timeframe assessed in this IA.	There will also be an equal reduction in the probation caseload, but the impacts are outside of the timeframe assessed in this IA.	High: -£1.8m Low: -£1.6m Best: -£1.7m
	<i>Non-Monetised</i>	N/A	Increased time in prison and use of the services provided there.  Negative impact on prisoners and their families and the potential for further reoffending as a consequence.  Increased care of elderly prisoners affecting NHS (England/Wales).	Greater victim confidence and improved public protection.  Local authorities provide fewer services to those remaining in custody for longer.  Less need for Multi-Agency Public Protection Arrangements affecting the probation service, the prison service and the police.	
f) Changes to the minimum term starting points for murder committed as a child	<i>Non-Monetised</i>	N/A	Whilst some children may spend more and others less time in custody, we anticipate that overall there will be an increase leading to an increase in the prison population. There will be minimal impacts within the first 10 years of the policy. There is a risk of up-tariffing of younger adults who commit	None	N/A

			murder which could lead to a more substantial impact on the prison population.		
g) Changes to tariff review eligibility of sentences for murder committed as a child	<i>Non-Monetised</i>	N/A	Individuals sentenced after turning 18, or those who would have been eligible for subsequent reviews after turning 18, may spend longer in custody as a result of no longer being eligible for these reviews. We do not anticipate significant prison place impacts, with negligible impacts within the next 10 years.	A fall in the number of applications for review and subsequent review hearings, providing some savings to HMCTS.	N/A
h) Increasing the time sex offenders sentenced to a S OPC must spend in prison	<i>Monetised</i>	Around 100 additional prison places are needed by 2027/28, with capacity construction costs of between £20.3m and £22.5m over the forecast period.	Around 50 additional prison places will be needed by 2027/28 followed by around 100 additional places by 2028/29, with 100 additional S OPC offenders in custody under the central scenario.  Total running costs will range between £12.1m and £13.3m.	50 fewer offenders on licence in 2027/28 and around 100 fewer by 2028/29 resulting in a total saving to the probation service of £0.7m to £0.8m over the next 10 years.	High: -£35.0m Low: -£31.7m Best: -£33.3m
	<i>Non-Monetised</i>	N/A	Greater length of time in custody with an increased usage of the services needed there.  Prisoners' relationships with their families could deteriorate, reducing the protective effect of strong family relations on reoffending.  Continued care of elderly prisoners impacting NHS (England/Wales)	An immediate reduction in Parole Board caseload though this may rebound in future years.  Improved victim confidence and improved public protection.  Local authorities provide services for less time to offenders on license.  Less need for Multi-Agency Public Protection Arrangements affecting the probation service, the prison service and the police.	N/A
i) Reform youth DTOs	<i>Monetised</i>		Total costs to the YCS of between £38.6m and £61.4m over the next 10 years.	None	High: -£65.6m Low: -£41.2m Best:

			Total costs to YOTs of between £2.6m and £4.2m over the next 10 years.		-£65.6m
	<i>Non-Monetised</i>		Additional YOT cost for supervision of those serving longer in the community as a result of the change to the remand calculation.	None	
j) Simplifying the Out of Court Disposals framework	<i>Monetised</i>	N/A	Increase in police operational costs, CPS prosecution costs for breach of conditions, additional treatment costs associated with conditions placed on cautions and a loss of both Penalty Notices for Disorder and victim surcharge revenue for a total cost to of £129.8m	Estimated benefit of £13.7m should accrue due to lower costs to HMCTS for proceedings for Penalty Notice for Disorder non-payment, plus revenues from both reparations and penalties on conditional cautions.	Best: -£116.1m
	<i>Non-Monetised</i>	N/A	HMCTS may incur costs in enforcing non-compliance.	Simplified regime clearer for police service application  Offenders benefit from focus on rehabilitation.  Victims' confidence that punishment suits the crime.	N/A
k) Problem-Solving Courts	<i>Monetised</i>	N/A	Costs to HMPPS for offender supervision, drug and alcohol testing; programme management, and short spells in custody; HMCTS cost for review and breach hearings (including Legal Aid); monitoring and evaluation: £6.2m	Estimated benefit of £1.4m from diverting new offenders away from custody and the community (Community Orders and Suspended Sentence Orders).	Best: -£4.8m
	<i>Non-Monetised</i>	N/A	None	Improved judicial confidence in sentencing system  Increased offender compliance and reduced reoffending  Reduced use of custody	

l) Statutory minima for repeat offenders	<i>Non-Monetised</i>	N/A	None	Any deterrent impact on offender behaviour and change in sentencing behaviour cannot be reliably predicted	N/A
m) Road Traffic Offences	<i>Monetised</i>	Around 100 additional prison places are needed by 2021/22, with capacity construction costs of between £20.4m and £22.2m over the forecast period.	<p>Combined costs to HMCTS and SCTS of around £25.3m over the appraisal period.</p> <p>Combined costs to LAA and SLAB of around £8.4m over the appraisal period</p> <p>Increased probation services costs of £9.0m over 10 years.</p> <p>Combined HM Prison Service and Scottish Prison Service running costs of between £32.3m and £33.3m over the appraisal period.</p>	Between 10 and 20 fewer offenders under probation supervision in 2030/31 for an overall benefit of around £0.1m.	Best: -£96.8m High: -£98.1m Low: -£95.4m
	<i>Non-Monetised</i>	None.	Costs to the CPS of more trials in magistrates and crown courts.	None	
n) Doubling the maximum penalty for assaulting an emergency worker	<i>Monetised</i>	Between 200 and 300 additional prison places are needed in 2021/22 with capacity construction costs of between £42.0m and £69.1m over the forecast period.	<p>Increased costs to HMCTS of around £7.1m over the appraisal period.</p> <p>Increased legal aid costs of around £3.7m over the appraisal period.</p> <p>Prison running costs of between £66.2m and £104.0m over the appraisal period.</p> <p>Probation costs of between £41.0m and £58.5m over the appraisal period.</p> <p>Electronic monitoring costs including purchase of equipment and supervision of between £1.0m and £6.1m over the forecast period.</p>	None	Best: -£185.5m High: -£248.6m Low: -£161.1m
	<i>Non-Monetised</i>	None	Costs to the CPS of more trials in the crown court.	None	
o) Abolishing SACs	<i>Monetised</i>	None	Alternative sentences to	The cost of running SACs is	Best: -£0.8m



			SACs will be given, at a cost of £4.6m.	removed, for a saving of £5.4m.	
	<i>Non-Monetised</i>	None	None	None	
p) Strengthening supervision powers for probation practitioners	<i>Monetised</i>	None	Increase in the duration and intensity of supervision at a cost of £2.7m and an increase in the likelihood of breaches at a cost of £7.0m	None	Best: -£9.7m
	<i>Non-Monetised</i>	None	Could lead to an increased workload for probation officers	Improved offender management, with potential for reduced reoffending.	
q) Unpaid work consultation duty	<i>Non-Monetised</i>	None	None	Consultation with local stakeholders will improve reparative quality of community orders, integrating offenders into community affairs.	N/A
r) Polygraph testing for service and repatriated offenders	<i>Non-Monetised</i>	N/A	Resource needed to administer polygraph testing to a stock of 20 maximum additional cases in steady state already exists within the NPS.	Improved offender compliance with license conditions.  Information about further criminal activity is disclosable to police and could improve investigations and thereby public protection.	N/A
s) Increased flexibility of Electronic Monitoring on community sentences	<i>Non-Monetised</i>	N/A	None	Increased flexibility in the arrangement of curfew hours per day over the week will benefit offenders in employment.	N/A
t) Changes to MAPPA provisions	<i>Non-Monetised</i>	N/A	None	Tightened management procedures will better protect the public for terrorist or terror related offenders.	N/A
u) Amend the provisions for remands to youth detention accommodation	<i>Non-Monetised</i>	N/A	If successful at reducing the use of custodial remand, this could lead to a reduction in youth custody places, with corresponding savings for YCS	A reduction in the use of custodial remand is likely to incur costs elsewhere in order to provide appropriate provision (e.g. Local Authority Accommodation or increased use of conditional bail packages).	N/A

				Reduce exposure to the custodial environment and avoid detrimental disruption to children's lives, which can be criminogenic, and therefore provide long-term benefits	
v) Pilot stronger high-end youth community sentences	<i>Monetised</i>	N/A	Increase in caseload under intensive supervision as a result of increased duration of ISS, estimated at between £0.8m and £1.6m per year (low / high) during pilot (2023/24) and £3.2m and £6.4m (low / high) during national rollout (assumed in 2024/25), these figures include annual EM specific costs of <£0.05m during the pilot and around £0.1m during national rollout.	None	Based on assumption of piloting in 25% of areas from Autumn 2021/22, with national rollout from 2024/25.  Low: -£22.6m High: -£44.7m
	<i>Non-Monetised</i>	N/A	EMS will incur additional equipment costs if the whole ISS caseload receives GPS instead of radio frequency tags. Any likely increase is included in the monetised costs associated with measure (w) below and therefore not monetised here.  Any additional costs resulting from changes in the level of breaches have not been quantified.	Less use of custody impacting the YCS.	
w) Location monitoring requirements on YROs	<i>Monetised</i>	N/A	Steady state EMS costs of less than £0.1m per annum for additional cost of GPS equipment.	None	Best: -£0.6m
	<i>Non-Monetised</i>	N/A	It is assumed that this requirement will be used with children who would have received another requirement involving EM (i.e. curfews or exclusion zones). If a significant	Less use of custody impacting the YCS  Used appropriately, we believe that this technology will also help to reduce the	

			number of children receive location monitoring who would not have received any form of EM, then this could incur additional running costs beyond those estimated.  Rollout of this requirement will be monitored alongside the evaluation of measure (v).	likelihood of a child breaching the requirements of their order.	
x) Criminal records	<i>Monetised</i>	£0.1m costs to update IT systems which generate DBS certificates.	None	None	Best: -£0.1m
	<i>Non-Monetised</i>	N/A	N/A	Offenders will experience improved employment opportunities  Unspecified UK GDP gain.	
y) Increase maximum daily curfew hours for YROs	<i>Non-Monetised</i>	N/A	Weekly maximum curfew hours and overall duration will not change; therefore, we do not anticipate significant costs as a result of this change.	Greater flexibility to design curfews may be beneficial in providing more effective supervision of children.	N/A
z) Abolish the Reparation Order	<i>Non-Monetised</i>	N/A	Reparation orders are largely redundant, other more effective and widely-used avenues for reparation in the youth justice system exist, we do not anticipate significant impacts as a result of this change	N/A	N/A
aa) Clarify that operating a secure school can be a charitable activity	<i>Non-Monetised</i>	N/A	None	The measure will broaden the pool of potential providers as charities will be able to bid for and run secure schools.	N/A
bb) Electronic Monitoring	<i>Monetised</i>	N/A	Additional monitoring equipment will be required at a cost of between £1.0m to £3.1m depending on the amount of increased EM use taking place under the policy. There will be additional supervision, should a monthly	None	Best: -£12.9m High: -£22.5m Low: -£10.8m

			increase in EM use over baseline be implemented, at a cost of between £9.7m and £19.4m.		
	<i>Non-Monetised</i>	N/A	A longer duration on electronic monitoring could increase the amount of breach, though it is not possible to estimate how much.	Offenders may be deterred from offending and/or break contacts with criminal associated.  Victims protected and improved confidence.  Improved public protection.	
Net Impact	<i>Monetised</i>	Transition costs range from a low of -£165.8m to a high of -£203.9m	Costs range from a low of -£508.2m to a high of -£632.1m	Benefits range from a low of £26.0m to a high of £26.5m	High: -£836.0m Low: -£674.0m Best: -£756.9m

## G. Direct costs and benefits to business calculations

80. It is assumed that there will be no direct costs or benefits to business for measures (a) through (bb), nor for the measures listed in Annex A.

## H. Risks and Assumptions

81. The impacts estimated in this IA are based on certain assumptions. These assumptions, and the associated risks, are described in Table 2 below.

**Table 2 Risks and Assumptions**

	Assumption	Risks / uncertainties
Overarching	Implementation date of the measures is October 2021.	This is dependent on the Bill progressing through Parliament to the anticipated timetable without significant delays.
	Future prison, probation and community volumes are based on a mix of published data and internal projections.	It is difficult to predict future changes in the types of offences being committed and how this will impact the decisions made by sentencers. If there are significant changes in sentencer behaviour or offences being committed, this will affect the estimates in this IA.
	Annual running costs for prison places are taken from the most recent prices published by HMPPS for 2019/20 inflated to represent the current price in 2020/21. The category of prison used varies by policy depending on the specific characteristics of offenders affected by that policy.	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.
	The prison cost per place for Scotland used in calculations is £43,003 (20-21)	This is the latest published cost for Scotland. These costs may be higher than this at present.

	prices), from the <i>Costs of the Criminal Justice System in Scotland</i> <sup>14</sup> .	
	<p>Additional prison places will need to be constructed in order to meet any increased demand; the construction cost for each place is £250,000.</p> <p>It is assumed that the construction of each place will take place in the two years before it is needed, and the costs will fall over this same period.</p>	<p>This cost is an average based on the total amount of money allocated to the construction of 10,000 additional prison places over the next 10 years.</p> <p>The exact construction profile will vary depending on when additional prison capacity is needed. This depends on a range of factors, primarily natural changes in the prison population and future policy changes that increase or decrease the prison population.</p> <p>Because of this, it is not possible to allocate precise prison places and costs for each additional place at this point.</p>
	Increases to the prison population in Scotland can be accommodated in the existing estate.	The estimated increase in prison population in Scotland is small (around 5), as such prison construction costs in Scotland have not been quantified. If additional estate was needed to accommodate this increased population then construction costs would be incurred.
	<p>The recruitment of additional police officers will impact the future prison population. It is assumed that there will be an increase in the absolute number of offenders sentenced than if the additional officers were not recruited. It is not certain how the profile of offenders entering the prison service will change and there are three scenarios which predict the effect on the mix of offence types and sentence lengths entering the prison service.</p> <p>Unless otherwise stated, in the central estimates in this IA where there is an impact on the prison population, it is assumed that the offence mix and sentence length distribution of offenders sent to custody remains the same as it is now.</p>	<p>Changes to upstream factors such as crime, police resourcing, charges, sentencing and future policies will result in variation from projections. Additionally, the closure of courts during the COVID-19 pandemic resulted in a backlog of trials which will need to be worked through.</p> <p>The prison population projection scenarios used in this IA are based on how the additional police resource is allocated and how this effects the mix of offences and sentence length of future sentences – these were:</p> <ul style="list-style-type: none"> <li>• Current Focus – this assumed that the characteristics of future convictions remains the same as in recent years</li> <li>• Serious Focus – this assumed the police would focus on high harm, low volume crime, meaning a smaller increase in the number of sentences, but the individuals sentenced were for more serious crimes and received longer sentences than the current average</li> <li>• Visible Policing – this assumed the opposite to Serious Focus and that the additional resource would result in more sentences of low harm, high volume offences</li> </ul>
	Annual probation costs per offender have been modelled using the economic forecasts of the Probation Reform programme.	The modelling includes all levels of staffing and vary depending on both the tier of the offenders affected & their disposal type. It also includes the intensity of probation activity that is estimated to take place.

<sup>14</sup> <https://www2.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot/costcrimjustdataset>

		In some areas in this IA, the probation costs or benefits are marginal, not full annual costs.
	The probability of release via Parole Board from a single application is 23% for any offender.	This applies to any sentence with a discretionary release mechanism and is based on aggregate data published by the Parole Board. No granular data is available to estimate the release rate for different sentence types or sentence length. If the release rate is lower for cohorts targeted in this IA, the impacts will be an underestimate.
	Sentencer behaviour remains the same.	If sentencer behaviour were to change, it would have a knock-on effect on almost every measure in this IA. Sentencer behaviour changing could change the number of people given community orders or suspended sentences. Or change the average sentence length imposed on any custodial sentence. It could also affect the type of sentence given and ultimately the time spent under licence supervision in the community.
	An optimism bias of 20% has been applied to all costs and benefits.	This is standard practice in IAs to account for unforeseen costs or over-estimated benefits. Therefore, it may be the case that monetised costs and benefits are lower than estimated.
Abolishing automatic halfway release for certain serious offenders	See the assumptions and risks in the separate IA	See the assumptions and risks in the separate IA.
WLO for those who murder children	None of the adult offenders convicted of homicide where the victim was a child in the observed data were given a WLO.	This is not possible to verifying using the data sources available, but it is a reasonable assumption given the very small number of WLOs imposed per year. As the offenders would get a mandatory life sentence in the current baseline, if this assumption is wrong, the effects are still minimal and would not be felt for 23+ years.
	The average time spent in custody for offenders currently serving a WLO is 35 years, where the offender has already served more than the average mandatory life sentence length (23 years)	WLOs are the most severe form of custodial sentence and are rarely given out; as such, there is limited data and historic data may not be representative of future offenders. Due to the nature of offences that warrant WLOs, it is hard to accurately predict future offence volumes, generally.
Longer minimum terms for discretionary life sentences	All assumptions and risks captured by overarching section.	
Changes to the minimum term starting points for murder committed as a child	Only tariff lengths of sentences for murder committed as a child will be impacted by this change.	There is a risk that an increase in the minimum tariff given to older children could lead to up-tariffing of young adults convicted or murder, this would lead to a more significant impact on the prison population.
Increasing the time sex offenders sentenced to a SOPC must spend in prison	See the assumptions and risks in the separate IA	See the assumptions and risks in the separate IA.
Simplifying the Out of Court Disposals Framework	See the assumptions and risks in the separate IA	See the assumptions and risks in the separate IA.
Problem-Solving Courts	The volume of offenders diverted is based on those sentenced to under 2 years of custody or Community Orders or Suspended Sentence Orders, with at	Level of need based on Offender Assessment System assessment which may be an under/overestimate.

	<p>least one health need (alcohol, drug or mental health) that plead guilty and accept referral.</p> <p>Review hearings take place fortnightly for the first six months and monthly thereafter.</p>	<p>Proportion of guilty pleas and acceptance to treatment are estimates.</p> <p>The frequency of reviews may need to be adjusted depending on need and effectiveness following the pilot and evaluation period.</p> <p>The pattern/volume of breach hearings and outcomes as a result of a breach highly uncertain.</p>
Strengthening supervision powers for probation practitioners	Duration of additional offender management required by each cohort affected by the policy.	<p>Each of these assumptions relates to the unit cost for additional probation supervision. There are overlapping interactions between them and so there may be a large overall change to the estimates in this IA if all of them were over or under-estimated.</p> <p>This is based on data from a single year, 2017. The data is three years old and breach rates may have since changed. Any changes in these rates will directly affect the prison population</p>
	Distribution of offenders under supervision by offender management tier.	
	Intensity of additional offender management supervision.	
	Additional staffing levels required to meet additional demand.	
	Breach rate is 24% for community orders and 22% for suspended sentence orders.	
	<p>The supervision and operational period of a suspended sentence order are the same in all cases.</p>	<p>This is based on operational insight and checked on a small number of SSO cases. This is a cautious assumption which assumes the maximum possible cost of the measure.</p>
Abolishing Senior Attendance Centres	Cost of running a senior attendance centre is £31,198 per centre per year	This aligns with the probation reform business case.
	There are 26 total senior attendance centres in operation	
	1,000 offenders are sentenced to a senior attendance centre per year	<p>The assumption is based on 2018/19 data only, rather than more recent data. Time series analysis up to this point suggests that there is little volatility.</p>
Abolishing automatic halfway release for serious offenders (youth)	Individuals currently serve half of their sentence in custody. Under this measure, those sentenced to 7 or more years for the specified offences will serve two-thirds in custody.	<p>Early-release and return to custody due to breaches mean this is not true for all cases, therefore impacts may vary from those estimated.</p>
	All children would transition into the adult estate under the current policy, therefore, all impacts will be felt in the adult estate.	<p>Some additional costs may be incurred by YCS – this is thought to be unlikely as all sentences in the past 3 years that would be in scope were to children who were at least 15 at the point of sentencing, and at least 3.5 years must be served in custody under current release provisions.</p>
Reform youth DTOs	See the assumptions and risks in the separate IA	See the assumptions and risks in the separate IA.
Pilot stronger high-end youth community sentences.	It has not been possible to quantify the impact of children who would have received a custodial sentence in the	This measure aims to provide a stronger alternative to custody. If children are diverted from custodial to community sentences as a result of this

	absence of this policy receiving a YRO with extended ISS due to this change	change then this would incur additional YOT and EM costs, and carries the risk of increased breach rates, but could provide substantial YCS savings, and community sentences can provide additional benefits to the welfare of the child. It has not been possible to quantify these impacts.  Piloting will be carried out to assess impacts and value for money to inform a national rollout
	Costs included in this IA are based on the assumption that some children who currently get YROs with ISS may receive ISS for a longer duration as a result of this policy.	This is not the aim of the policy but it is possible that a longer duration of ISS will be deemed appropriate for some individuals who currently receive YROs with ISS, there is also a risk of up-tariffing of children onto longer ISS orders as a result of this change.  There is significant uncertainty around how sentencers will apply the increased maximum. Therefore, impacts may be lower or higher than estimated. The policy will be piloted to examine any unintended consequences, such as inappropriate up-tariffing of children
	There will be an increase in time under electronic monitoring corresponding to the increase in duration of ISS, therefore EM costs will be incurred.	This is a top estimate, duration of EM may not rise as a result of any increase in overall ISS duration, therefore EM costs could be lower than estimated.
	Impacts are based on the assumption of piloting in 25% of areas from Autumn 2021/22, with national rollout from 2024/25	Impacts and costs are uncertain and will be explored through piloting. Therefore, costs of national rollout could vary from those estimated. The scale of the pilot is not fixed.
Location monitoring requirements on YROs	Children who would currently receive a YRO with a curfew requirement will also receive a location monitoring requirement. Therefore, the additional cost is just the GPS equipment cost, with no increase in the overall EM caseload.	If a significant number of children receive location monitoring who would not have otherwise received any form of EM then this could incur additional running costs beyond those estimated.
	No children who, in the absence of this policy, would have received a custodial sentence will receive a community sentence as a direct result of this policy.	This measure is part of a number of changes aimed at providing stronger alternatives to custody. If children are diverted from custodial to community sentences as a result of this (and other policies) this would incur additional YOT and EM costs, but could provide substantial YCS savings.
Road Traffic Offences	See the assumptions and risks in the separate IA	See the assumptions and risks in the separate IA.
Doubling the maximum penalty for assaulting an emergency worker	See the assumptions and risks in the separate IA	See the assumptions and risks in the separate IA.
Extend the maximum curfew period from 12 months to 24 months	No additional costs will arise from the initial sentencing for courts or legal aid.	It is expected that offenders will continue to be sentenced in the same Magistrate court or Crown Court, and they will incur the same legal aid costs.
	The increases in curfews will only apply to those who receive curfew as a requirement currently and assumes	There is uncertainty around how sentencers will apply the increased maximum time for curfew. It is assumed that sentencing behaviour will remain



	there will not be diversion from custody or new offenders receiving curfew.	the same, bar the increase in curfew length according to the scenarios.
	Any changes in breach rates and violations will be negligible	There is uncertainty around how offenders may behave with longer curfews and how these may be applied by judges and administered by probation officials. Management information indicates that there is a very small/negligible difference in curfew violations for those sentenced to curfew of 12 to compared to 18 months.
	EM costs include the cost of technology and the monitoring of offenders. These costs do not include additional uplifts for supplier premium for perceived increased risk of harm, additional loss of equipment, no SIM costs, no impact on software or contract management.	It is assumed the cohort will remain similar to those currently receiving curfew requirements. If the characteristics of the cohort change or there is substantial increased demand, there may be additional costs related to increased wear and tear, damage of technology and supplier related costs.
Increase maximum daily curfew hours for YROs	Impact on breach rate will be unchanged.	if more onerous restrictions are placed on the child this could lead to an increase in breach rate and associated costs. However, we anticipate that this greater flexibility will allow for more effective curfew provisions to be designed.

## I. Wider impacts

### Equalities

82. We hold the view that none of the PCSC Bill measures are likely to be directly discriminatory within the meaning of the Equality Act 2010 as they apply equally to all offenders. Please see the separate overarching equalities impact assessment published alongside this IA for further details.

### Impact on small and micro businesses

83. There are not assumed to be any direct costs or benefits to business for measures (a) through (bb), nor for the measures listed in Annex A.

### Better regulation

84. These measures are out of scope of the Small Business Enterprise and Employment Act 2015 and will not count toward the department's business impact target.

## J. Potential trade implications

85. There are not assumed to be any direct costs or benefits to business for measures (a) through (bb), nor for the measures listed in Annex A.

## K. Monitoring and Evaluation

86. The impact of the changes will be monitored by MoJ or associated agencies.