

Title: 'Breaking the Cycle' – Government Response Impact Assessment Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)
	IA No: MOJ092
	Date: 21/06/11
	Stage: Consultation Response
	Source intervention: Domestic
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?
 Despite the ambition and determination of those working within the justice system, too many people reoffend and too much money is spent on dealing with the consequences of high levels of reoffending. Government intervention is required to ensure punishments are robust and demanding and to reduce the level of reoffending. The sentencing framework requires simplification as it is complex, expensive and time-consuming to interpret and administer and is also difficult for the public to understand.

What are the policy objectives and the intended effects?
 Our central objectives are to ensure offenders face robust and demanding punishments and to make the public safer by breaking the cycle of crime.

 The intended effects of these policies are to ensure that offenders: are punished effectively; pay back to victims and society; and are rehabilitated effectively.

 The sentencing framework will seek to achieve a better balance across the purposes of sentencing to support these objectives, maintain fairness and trust in the system and improve value for money.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)
 The policy options which have been considered in this Impact Assessment are:

- Option 0: Do Nothing.
- Implement the proposals set out in the consultation response.

When will the policy be reviewed to establish the actual cost and benefits and the achievements of the policy objectives?	It will be reviewed 2011/12 - 2014/15
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:
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: 21 June 2011

Description: Implement the entire range of preferred options across *Breaking the Cycle*

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate:
COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)	
Low					
High					
Best Estimate	Unknown		Unknown	Unknown	
<p>Description and scale of key monetised costs by ‘main affected groups’ There may be additional resource costs incurred by Government through the policy options contained in <i>Breaking the Cycle</i>. The costs attached to sentencing policies are likely to be small.</p> <p>In cases where MoJ is piloting proposals to develop a better understanding of the impacts, full impact assessments will be published (where appropriate) at a point when the policy has been sufficiently developed.</p>					
<p>Other key non-monetised costs by ‘main affected groups’ Estimates of some of the costs are sensitive to the final design details of the policy. We will provide a fuller estimate of these costs when the detail has been sufficiently developed.</p> <p>In the long-run, the package of proposals is likely to place downward pressure on crime through improved rehabilitation.</p>					
BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)	
Low					
High					
Best Estimate	Unknown		Unknown	Unknown	
<p>Description and scale of key monetised benefits by ‘main affected groups’ The key monetised benefits are: - The sentencing policies are estimated to deliver savings to the MoJ of approximately £80 million in 2014-15.</p>					
<p>Other key non-monetised benefits by ‘main affected groups’ The key non-monetised benefits are: - A reduction in crime, as a result of a Criminal Justice System that is more effective in punishing offenders, protecting the public and reducing reoffending. - Improved benefits to victims through increased reparation.</p>					
<p>Key assumptions/sensitivities/risks The reduction in demand for prison places has been estimated using a series of assumptions about court decision making following the introduction of the policy proposals. If actual court decision making differs from these assumptions, the likely benefits will also differ.</p> <p>It is assumed that the main sentencing benefits come from savings made through reduced capacity in the criminal justice system. Failure to turn any reductions in prison numbers into realisable savings for government would lead to reduced benefits.</p>					

Impact on admin burden (£m):			Impact on policy costs (£m):			In	
Costs:	Benefit:	Net:	Costs:	Benefits:	Net:	Yes/No	
What is the geographic coverage of the policy/option?					England and Wales		
From what date will the policy be implemented?					2011		
Which organisation(s) will enforce the policy?					Ministry of Justice		
What is the total annual cost (£m) of enforcement for these organisations?							
Does enforcement comply with Hampton principles?					Yes		
Does implementation go beyond minimum EU requirements?					No		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)					Traded: N/A	Non-traded: N/A	
Does the proposal have an impact on competition?					No		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)			Micro Unknown	< 20 Unknow n	Small Unknow n	Medium Unknown	Large Unkn own
Are any of these organisations exempt?			No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any specific impact tests undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, click on the link for the guidance provided by the relevant department. (Double-click to open links in browser.)

	Impact	Page ref within IA
Statutory equality duties¹? <u>Women Equality Unit: Gender Impact Assessment (PDF)</u> <u>Disability Rights Commission: Disability Equality Scheme</u>	Yes	18
Economic impacts		
Competition? <u>Competition Impact Assessment</u>	No	
Small firms? <u>Small Firms Impact Test</u>	No	
Environmental impacts		
Carbon emissions? http://www.defra.gov.uk/environment/index.htm	No	
Wider environmental issues? <u>Guidance has been created on the Defra site</u>	No	
Social impacts		
Health and well-being? <u>Health: Health Impact Assessment</u>	No	
Human rights? <u>Ministry of Justice: Human Rights</u>	No	
Justice? http://www.justice.gov.uk/guidance/justice-impact-test.htm	Yes	18
Rural proofing? <u>Commission for Rural Communities</u>	No	
Sustainability? <u>Defra: Think sustainable</u>	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2010, once the Equalities Bill comes into force.

Evidence Base (for summary sheets) – Notes

References

No	Legislation or publication
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1	
2	
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains a saving emissions table that you will need to fill in if your measure has an impact on Carbon emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
T										
A										
T										
T										
A										
T										

* For non-monetised benefits please see summary pages and main evidence base section

Introduction

1. The Ministry of Justice (MoJ) published a consultation document entitled 'Breaking the Cycle: effective punishment, rehabilitation and sentencing of offenders' (Breaking the Cycle) on 7 December 2010. It set out proposals to reform how we punish, sentence and rehabilitate offenders. This impact assessment accompanies the Government response following consultation.
2. The Government aims to achieve these objectives in a way which delivers value for money and is consistent with the Spending Review obligations of the Ministry of Justice (MoJ). The policy seeks to improve public safety and reduce the number of victims through reducing reoffending.
3. Where appropriate, this Impact Assessment should also be read as the Impact Assessment of the Legal Aid, Sentencing and Punishment of Offenders Bill.

Organisations in the Scope of the Proposals

4. The proposals as set out in this Impact Assessment will have effect in England and Wales only.
5. The main groups affected by these proposals are:
 - Ministry of Justice (MoJ) and arms length bodies, including:
 - National Offender Management Service
 - Her Majesty's Courts and Tribunals Service
 - Legal Services Commission
 - Sentencing Council
 - Crown Prosecution Service
 - Home Office
 - Department for Work and Pensions
 - Department of Health
 - National Health Service
 - HM Treasury
 - Police Forces
 - The Judiciary
 - National Treatment Agency
 - Local Authorities in England and Wales
 - National Assembly for Wales
 - Potential non-public sector rehabilitation service providers
 - Potential victims of crime (individuals, households and businesses)
 - Members of the public
 - Offenders

Cost and Benefits

6. Where policy details of the proposals are yet to be finalised, this Impact Assessment contains no detailed quantification of costs and benefits. We will update our estimate of the impact on costs and benefits of those policies which are still being developed or are at pilot stage.
7. There are a small number of policies for which there is not sufficient data to quantify the costs and benefits. In these cases we have identified what we believe the costs and benefits to be without producing a quantitative estimate.

Structure of the Impact Assessment

8. The next section sets out the 'base case': the assumptions the government has made about future trends if none of the changes set out in 'Breaking the Cycle' are implemented, and there is no change in policy and practice. The Impact Assessment then proceeds to briefly set out the policy proposals contained in the consultation response, and presents an assessment, where the evidence permits, of the estimated costs and benefits to society of the policy proposals.

Base Case / Option 0

9. The 'base case' sets out the assumptions the government has made about future trends if no action is taken and the policy proposals as set out in 'Breaking the Cycle' are not implemented.
10. The base case assumes no change to the current sentencing and offender management policy or delivery. Under the base case, offender populations and their offending profiles are assumed to remain unchanged from the latest historic data available.
11. In the base case we assume that the severity of sentencing remains the same and that detection and conviction levels remain flat. Using the medium projection of prison population, without any policy changes, we expect the prison population to reach 88,500 by the end of the current spending review period (end of 2014/15).
12. The base case also assumes no change to the industries and hours of work already established in the prison estate. In the case of Community Payback, the existing caseload and sentencing pattern is assumed to remain unchanged.

Options under consideration

13. This section provides a description of how the policy proposals set out in 'Breaking the Cycle – Government Response' will deliver a package to reform how we punish, sentence and rehabilitate offenders.

PUNISHMENT

14. Our ambition is to transform prisons into industrious places of hard work. We will:
 - create a working week of up to 40 hours for prisoners;
 - focus the daily regime around work;
 - ensure prison work is sustainable and self-financing; and
 - focus education and training in prisons on equipping offenders to work, and link work activity to qualifications and employment opportunities on release, enabling offenders to be productive members of society, not a burden on the state.
15. We will also
 - ensure courts have more ways of punishing and controlling offenders by prohibiting foreign travel and imposing longer, tougher curfew orders; and
 - establish compliance panels to ensure that young people comply with their sentences.

Costs and Benefits

16. With regard to the policy proposals on punishment, there is no further evidence on the likely impacts available at this stage in order to present updated costs and benefits beyond what was published alongside the Green Paper. Therefore, the best available evidence of the potential impacts of these proposals are set out in the Impact Assessment associated with the Breaking the Cycle Consultation Document.

PAYBACK

17. We will implement the Prisoners Earnings Act 1996 from September 2011 to enable deductions to be taken from some prisoners while working on licence in the community prior to release. We propose to deduct 40 per cent of their earnings, after tax and National Insurance. This should enable the Ministry of Justice to generate additional income of around £1 million per year, which will go towards victim support services.
18. With regard to the policy proposals on improving the rehabilitation of offenders, the policy proposals remain the same as set out in the 'Breaking the Cycle' Consultation Document, and there is no further evidence available at this stage to present an updated Impact Assessment, beyond what was published alongside the Green Paper. Therefore, the best available evidence of the potential impacts of these proposals are set out in the Impact Assessment associated with the 'Breaking the Cycle' Consultation Document.
19. We will also:
 - improve Community Payback so it is more intensive and demanding. Offenders will work a longer working day and a longer working week. We will also introduce competition to harness the skills of the private and voluntary sectors to drive up standards and ensure that any revenue is returned to the public purse;
 - create a positive duty for courts to consider making a compensation order in all cases where harm, damage or loss is caused to an identified victim;
 - work with the Sentencing Council to encourage greater use of financial penalties;
 - work to improve further the enforcement of financial penalties; and
 - consult on a new victims' strategy which will include proposals to increase the Victim Surcharge and extend its application to a wider range of disposals.

Costs

20. There are likely to be some small transitional costs and potential increases in pressure on NOMS and other agencies as a result. There could also be small transitional costs to the criminal justice system through administration of an increased number of fines and compensation orders.

Benefits

21. Increased and more effective payback by offenders should lead to benefits to victims and society as a whole as offenders make reparation for the harm they have caused. The proposals could lead to an increase in the use of both fines and compensation orders, providing greater reparative benefits to victims of crimes as well increased punishment of offenders. If financial penalties replace more costly disposals such as certain community order requirements, the policy could lead to savings to the criminal justice system. Such savings should not be regarded as immediately cashable.

PROGRESSION

22. Our priorities are to get offenders off drugs and alcohol for good; address offenders' mental health problems; get offenders into work; and reduce barriers to resettlement. We will take into account the different profile of women's offending in achieving this.
23. We will pilot Drug Recovery Wings - focused on providing short-sentenced, drug-dependent prisoners with continuity of treatment between prison and the community - in five prisons. We will also increase security measures to reduce the supply of drugs and alcohol into prison and promote drug free environments.
24. We will explore options for intensive drug and alcohol treatment based accommodation. We will also continue to work with the eight local areas already announced as pilots for a payment by results approach for drugs and alcohol recovery.
25. We must ensure offenders with mental health problems receive treatment in the most appropriate and the most secure setting necessary. We are working with the Department of Health and the Home Office to pilot and roll out liaison services in police custody and at courts by 2014.
26. We will pioneer a world first - a system where we only pay for results, delivered by a diverse range of providers from all sectors. This principle will underpin all our work on reoffending. This is a radical shift. We have already started several pilots and will launch a competitive process this summer to commission further pilots. But we are clear that we want to rapidly build on these pilots. To do this we will ensure that we will no longer provide rehabilitation services directly without testing where the private, voluntary or community sectors can provide them more effectively and efficiently. We will publish a wider Offender Services Competition Strategy shortly, which will set out an ambitious timetable for taking payment by results forward and the wider competition strategy.

Costs and Benefits

27. We expect that there will be some transitional costs associated with these policies, but these will be outweighed in the long run as there is a reduction in reoffending and demand on the CJS. Specifically, we estimate that by ensuring offenders with mental health problems receive appropriate treatment, the demand for prison places could be reduced by 650 places by the end of the current spending review period, releasing cash savings of £20m.
28. With regard to the Payment by Results approach, the successful roll out of the options set out in the Consultation response to 'Breaking the Cycle' are likely to play an important role in bringing down the overall level and cost of crime in the medium to long term, and produce a strong social return on investment.
29. Pre-implementation analysis suggests that the successful roll out of the proposals could lead to a reduction in crime of more than 500,000 offences per annum from 2016/17 and generate economic benefits of over £0.6bn per annum. Analysis of the methodology to produce this is at Annex 1.
30. This analysis suggests that the economic and societal benefit is likely to be considerably higher than the additional resource needed to implement and, as such, there is likely to be a strong economic case for investing in rehabilitation that is expected to provide a significant impact on reducing reoffending.
31. A number of pilot schemes are being developed to test the policy proposals set out in the Green Paper, and the outcomes of these pilot schemes will inform the evidence base, improve the Government's understanding of the likely costs and benefits of the proposals and inform future decisions concerning roll-out. The Government will, at a later date, publish Impact Assessments on these proposals as and when required.

TRANSPARENCY

Opening up justice

32. We must open up justice so that victims and the public have a better understanding of how we are performing and more opportunities to get involved.
33. In March we published plans to increase community access to local criminal justice and make it easier for individuals and communities to access information about local services. We will:
 - publish more information about sentencing, justice outcomes and local justice services;
 - streamline the requirements that govern how a court must explain a sentence for both adults and young offenders;
 - develop means by which decision-makers can assess the impact of crime on community life, gather views on community priorities then use the information as part of the justice process;
 - increase the accessibility of information on a range of volunteering opportunities across the criminal justice system to enable community participation on local crime and justice issues; and
 - increase community involvement in justice so that local people help to find resolutions to low level crime that reflect community concerns and interests. This will include continuing to test Neighbourhood Justice Panels to bring local volunteers and criminal justice professionals together, using restorative and reparative approaches, to decide what action should be taken to deal with some types of low level crime and disorder.

Costs

34. Estimates of costs, where they occur, are sensitive to the final design details of the policy. The Government will, at a later date, publish Impact Assessments on these proposals as and when required.

Benefits

35. Depending on the effectiveness of work to improve communication in sentencing, there is likely to be an increase in public understanding of sentencing, potentially leading to greater confidence in the CJS.
36. Simplifying performance management arrangements and opening up justice will lead to improvements in the efficiency of the criminal justice system.

Recognising and repairing the harm caused to victims

37. We will ensure that victims have a more central role in the criminal justice system.
38. We will work with the Home Office to develop a framework that supports local practitioners to develop and deliver effective, best practice restorative justice approaches at all stages of the criminal justice system. We will also continue to develop the evidence base for, and practice of restorative justice including by:
 - improving its use in community resolution as part of responses to better tackle low-level crime;
 - encouraging its use as part of or in addition to out-of-court disposals;

- formally embedding the role of victims in restorative justice at each stage of the process;
- improving the advice sentencers receive about pre-sentence restorative justice practices and how they take restorative justice into consideration in court, including through pre-sentence reports and Victim Personal Statements;
- establishing guidance and minimum standards for youth offending teams, probation and prisons for undertaking more and better restorative justice practices, both pre- and post-sentence; and
- seeking to make the referral order a more restorative disposal for young offenders by increasing the training that is given to referral order panel members, removing the current restrictions on the repeated use of the order and allowing courts greater flexibility to give a young person who is in court for the first time, and pleads guilty, a conditional discharge as an alternative to a referral order.

Costs

39. It is likely that there will be a small transitional cost in developing these ideas for restorative justice. The greater provision of restorative justice will be met with existing criminal justice resources. Consequently the policy will not impose financial pressure.

Benefits

40. By encouraging better use of and embedding restorative justice practices, the system will become more restorative enabling a larger number of offenders to payback to victims. The policy will therefore potentially improve victim satisfaction and increase confidence in the criminal justice system. The policies also offer the potential for savings through reduced reoffending and in the event that restorative disposals replace existing low level disposals and prevent escalation of cases in severity up the criminal justice system. Any saving is unlikely to be cashable over the spending review period but there is potential for cashable savings in the longer run.

Responding more effectively to crime

41. **Out of court:** We will create a **clear national framework** for dealing with offences out of court which we will publish later this year. We will also replace the current youth out-of-court disposals with a system of youth cautions, and youth conditional cautions, repeal youth penalty notices for disorder and promote informal restorative disposals. We will reduce unnecessary bureaucracy by giving the police the power to authorise a conditional caution without referral to the Crown Prosecution Service; and add the option of paying to attend an educational course to adult penalty notices for disorder.
42. **Pre-trial:** We will only use remand places where it is necessary to protect the public from those whose offending and alleged offending is serious enough to warrant custody. Courts will still have the power to remand those persistent offenders who flout bail to the point that their offending may merit custody and to use remand in cases where there is a risk of domestic violence. We will also reform secure remand for young people so that all children under 18 are treated in the same way for remand purposes, rather than treating 17 year olds as adults.
43. **Custodial sentences:** We are considering several important reforms:
- creating a new offence with a mandatory minimum prison sentence of 6 months for adults, to send a clear message to those who possess a knife to threaten and endanger;

- providing courts with greater discretion in using suspended sentences so that they are able to suspend a sentence for a custodial period of up to two years, choose whether or not to impose community requirements, and have the additional options of imposing a fine for breach; and
- legislating to remove some of the statutory restrictions in the use of fixed term recall and executive re-release to reduce unnecessary use of Parole Board resources.

44. **Reducing the number of Foreign National Offenders:** We propose the following reforms:

- prisoner transfer arrangements, which ensure that EU nationals sentenced here serve their sentences in their country of origin, will come into force from December 2011;
- deporting foreign national prisoners on indeterminate sentences once they have served their minimum custodial term; and
- we are piloting the use of simple cautions to divert from prosecution foreign nationals who do not have leave to stay in the UK and have committed certain crimes, on condition that they leave the UK. We will extend this through legislation to conditional cautions.

Costs

45. A clearer national framework for out of court disposals should be easier and more efficient for the police and prosecutors to apply. There is the potential for there to be a small cost from increased police workload if the proposals lead to greater use of conditional cautions. However, as use will remain at the discretion of the local police force, we would only expect there to be greater use of conditional cautions if this could be absorbed by efficiencies, meaning that the policies would be financially cost neutral. Using conditional cautions for foreign national offenders has potential for creating operational costs for the United Kingdom Border Agency (UKBA) in providing police and prosecutors with information to allow a decision on suitability for a conditional caution to be made.
46. We do not expect there to be any costs associated with proposals concerning remand.
47. We estimate that the proposal to introduce a mandatory minimum prison sentence of 6 months for adults for those who possess a knife to threaten or endanger will lead to additional costs of £5m per year from 2013/14, due to an increased demand for prison places of around 100.
48. We do not expect the suspended sentence proposal to lead to any additional costs
49. We do not expect there to be any costs associated with the proposals concerning fixed term recall and executive re-release
50. There will be some costs to the UKBA associated with deporting Foreign Nationals currently serving an IPP, as there will also be some small costs to agencies such the Police and UKBA in the implementation of policies to reduce the number of foreign national offenders. Ministry of Justice, Home Office and UKBA have worked together to understand the likely scale of these costs.
51. The EU prisoner transfer agreement will lead to a slow build up of costs associated with the administration of the framework decision which will be absorbed by NOMS. A casework section is already in place in NOMS which deals with the transfer of foreign national prisoners. It has capacity to take up the increased casework. There could be a small increase in escort costs of around £500,000 (assuming a transfer rate of around 300 prisoners per year – the upper estimate of possible transfers).

Benefits

52. It is possible that recipients of a penalty notice for disorder will be rehabilitated more effectively through attending educational courses instead of simply paying a financial penalty. It is possible that the reduced reoffending will generate potential cashable savings; however these are unlikely to be realised in the spending review period. It is also possible that offering offenders an additional way to discharge their liability to conviction for a penalty offence might result in an increase to the initial PND payment rate.
53. Giving the police the power to authorise conditional cautions without referral to the CPS will better align police powers to use simple and conditional cautions and to charge suspects. This could simplify the operational processes involved in the use of out-of-court disposals. This could also result in small but not necessarily cashable savings. As most conditional cautions are reparative (usually requiring the offender to pay compensation to the victim) it is likely that increased use of conditional cautions will have the effect of making the criminal justice system more reparative. It is also possible that increased use of conditional cautions will make the system more restorative and increase victim satisfaction. We estimate that financial savings of around £10m can be generated through the conditional cautioning of foreign national offenders, through a reduction in demand of around 250 prison places.
54. Our best evidence to date suggests that reform of remand will save £40m p.a. by the final year of the spending period through a reduction in demand of around 1,300 places.
55. The benefits associated with the knife crime proposals are that the level of public protection, and hence public confidence, could be increased as a result of the introduction of a mandatory prison sentence for any adult found guilty of possession of a knife to threaten and endanger.
56. The suspended sentence proposal will provide greater choice for sentencers, and could lead to financial savings due to reduced pressure on probation services due to a reduced number of community requirements imposed.
57. The benefits associated with the recall proposals are that we estimate that there will financial savings of £10m per year due to a reduced demand in prison places of around 250.
58. There will be financial savings associated with deporting foreign national IPP prisoners on tariff expiry of £10m by the end of the Spending Review period, as a result of a reduction in demand for prison places of approximately 300.
59. There will be no direct cash savings attached to the prisoner transfer arrangements. Around 600 EU nationals a year receive sentences of 2 years or more and would fall within the ambit of the framework decision. While it is our intention to seek the transfer of these prisoners we do not know how many of these will have been ordinarily resident in the UK and who cannot be deported. Such prisoners would not qualify for compulsory transfer. In the long-term it is possible that this will be off set by British nationals returning to the UK from other EU Member States.
60. We will analyse the potential costs and benefits of reform of indeterminate sentence of Imprisonment for Public Protection as part of the review.
61. In terms of the evidence base on the links between the prison population and crime levels, the Impact Assessment published alongside the 'Breaking the Cycle' Green Paper referred to the lack of any clear evidence about the existence or size of an incapacitation effect. It also stated that future editions of the Impact Assessment would reflect any further analysis or development of the evidence base. The Ministry of Justice will make further evidence available over the coming weeks.

A simpler framework and simplifying performance management

62. We have introduced legislation to:
- ensure that all future sentences are subject to a single set of release arrangements, regardless of the date on which the offence was committed;
 - consolidate the various existing release provisions;
 - make the process for calculating remand time more straightforward and efficient by making it a simple administrative process;
 - create a single set of rules for the operation of Home Detention Curfew;
 - remove some of the current statutory restrictions to allow greater professional discretion to decide when lower risk prisoners who have been recalled to prison may be re-released on licence;
 - repeal unimplemented legislation that does nothing but complicate the sentencing framework.
63. As well as simplifying the law we will simplify performance management arrangements and open up justice so that victims and the public have a clearer view of how we are performing and more opportunities to get involved.

Costs

64. Overall we estimate that there to be no significant additional financial cost (other than small transitional costs) from the proposed reforms.

Benefits

65. We lack evidence about the scale of the current error costs in the system arising from legislative complexity; however we are aware that errors are routinely identified at appeal stage. There are likely to be benefits in terms of savings in court and administrative time spent correcting errors which would either lead to greater efficiency or cashable savings.

Overall Financial Impact and Impact on Prison Places

66. Our central estimate is that these proposals will reduce demand by approximately 2,650 prison places by the end of 2014/15. This relates to a financial saving of £80 million by the final year of the spending review. This Impact Assessment has used a unit cost of an annual prison place of £30,000 over the spending review period.
67. The individual impacts of the policy proposals on the prison population are as follows (all numbers have been rounded). We have undertaken an assessment of the uncertainty around the central estimates over the spending review period. Where appropriate, the ranges have been included in the table below, alongside the central, best estimate.

Policy proposal	Final Year of spending review (2014/15)	
	Estimated prison place savings	Estimated financial savings (rounded to nearest £5m)
Reducing use of remand in custody	Our central estimate is 1,300 but actual savings could be between 1,200 and 1,400.	£40m.
Deporting foreign national IPP prisoners on tariff expiry	300	£10m
Diversion from custody of offenders with mental health problems	Our best estimate is 650 prison places however the actual number achieved could be as high as 750.	£20m
Conditional cautions for foreign national offenders	0-500. Emerging evidence from pilots suggests our best estimate is around 250.	£10m
Recall	Our central estimate is 250 but it could be between 200 and 300	£10m
New offence of aggravated possession (with a mandatory minimum sentence)	We estimate that this will lead to an upward pressure of up to 100 prison places	-£5m
TOTAL	2,650	£80m

Annex 1. An estimate of the social benefit associated with rehabilitation policy proposals

Summary

68. The successful roll out of the rehabilitation policy options, as set out in the Government Response to 'Breaking the Cycle' and discussed in this Impact Assessment, are likely to play an important role in bringing down the overall level and cost of crime in the medium to long term. The successful roll out of rehabilitation policy options is expected to produce a strong social return on investment.
69. Pre-implementation analysis suggests that the successful roll out of the rehabilitation policies could lead to a reduction in crime of 500,000 to 1,700,000 offences per annum from 2016/17 and generate social benefits ranging from £0.6 billion to £2 billion per annum.
70. This analysis suggests that the social benefit is likely to be considerably higher than the additional resource cost needed to achieve this success. Consequently, there is likely to be a strong economic case for investing in rehabilitation that has a significant impact on reducing reoffending.
71. The wide range of potential social benefits reflect the uncertainties surrounding the key assumptions that underlie this analysis, which should be considered as highly indicative.

Analysis

72. Table 1 below presents a range of potential long-run annual average impacts on crime and the costs of crime of the overall package of rehabilitation policies. The estimated reductions in crime and the cost of crime should be considered as highly indicative, with the wide range of potential benefits reflecting the uncertainties surrounding the key assumptions that underlie the analysis.

Table 1. Long-run annual average impact on crime and the costs of crime ²

	Low estimate	High estimate
Reduction in crime	500,000	1,700,000 ³
Social benefit (£m)	630	2,020 ⁴
- Non-criminal justice system	480	1,540
- Criminal justice system	150	480

73. The social benefits set out in Table 1 above should not be considered as financial benefits in the form of cost savings that could be recovered by Government or wider society. Only a small proportion of these benefits represent potential cost savings to Government. Moreover, MoJ-specific financial benefits are highly dependent on a number of factors including the ability of the MoJ to realise any potential savings through reducing capacity
74. The analysis in Table 1 is based on the following key underlying assumptions:
 - The successful roll out of the rehabilitation policy options leads to a reduction in the frequency of reoffending by 10% from current levels;⁵

² The economic and societal benefit uses 2010/11 constant prices.

³ Figures are rounded to nearest 100,000, hence 5:16 ratio provides rounded estimate of 500,000 to 1,700,000

⁴ Figures are rounded to the nearest £10m.

⁵ For the purposes of this analysis the current level of crime and reoffending is derived using latest published data available at the time of this analysis, which is held constant.

- The impact of rehabilitation is assumed to last up to five years from the point of contact between offenders and rehabilitation service providers, leading to a reduction in the frequency of reoffending during this time period;⁶ and
 - Each prevented reconviction results in a greater number of prevented crimes.
75. The following sections set out the approaches adopted to provide the estimates of prevented crime and related economic and societal benefit as shown in Table 1 above.
76. The estimated reduction in crime generated by the package of rehabilitation policy options is calculated as follows:
- The baseline number of convictions is calculated by multiplying the total number of offenders in scope by the average number of times these offenders are reconvicted at court;⁷
 - The number of prevented convictions in the year following intervention is 10% of the baseline total in both lower and upper estimates⁸ and the impact of rehabilitation is assumed to last up to five years;
 - The reduction in proven offences is calculated by multiplying the reduction in court convictions by the average number of offences per court conviction;
 - The reduction in crime is calculated by multiplying the estimated reduction in proven reoffences by the average number of crimes per reoffence. This analysis assumes a range for this multiplier of 1:5 to 1:16, which is based on two approaches to estimate the ratio of reoffenders' convictions to the crime that is assumed to be attributable to reoffending;⁹
 - This approach assumes that around 50% of total crime is committed by those who have been convicted previously in the Criminal Justice System, which is derived by combining the findings from the Offending, Crime and Justice Survey¹⁰ with the results from the Arrestee Survey.¹¹
77. The social benefits represent a reduction in the economic and social costs of crime against individuals and households. These benefits are calculated using the average cost of crime estimates published by the Home Office¹², which includes the costs to victims and business as well as to Government. The reduction in the cost of crime is calculated as follows:
- The estimated reductions in the volume of crime are multiplied by the weighted average cost of crime to calculate the total economic and societal benefits.¹³

⁶ This “*Persistent Rehabilitation Effect*” has a significant impact on subsequent benefit calculations and there is a great deal of uncertainty around the scale of this effect. Both the upper and lower estimates presented assume a five year persistent rehabilitation effect.

⁷ Offenders in scope are those released from custodial sentences and those commencing Community Orders or Suspended Sentence Orders.

⁸ Rehabilitative effects of these magnitudes have been found for a number of existing offender management programmes. One example is Enhanced Thinking Skills, which is an accredited offending behaviour programme that has been extensively delivered in prison custody and the community.

⁹ There is no common accepted methodology to calculate this ratio. This report uses a range based on the ratio between proven offending and total crime. The exact ratio depends on the assumptions used but under a range of plausible assumptions of offending behaviour and reconvictions around types of crime the lower bound could be between 1:5 and 1:15.

¹⁰ “Home Office Research Study 275, Offending in England and Wales: First results from the 2003 Crime and Justice Survey”. Home Office Research, Development and Statistics Directorate. January 2005

¹¹ “The Arrestee Survey Annual Report: October 2003-September 2004” Richard Boreham, Elizabeth Fuller, Amy Hills and Steve Pudney. Home Office Statistical Bulletin. November 2006.

¹² The economic and social costs of crime in the Home Office Online Report 30/05 are rebased to 2010/11 using the historic and estimated Gross Domestic Product deflator.

¹³ The weighted average cost of crime is derived using the average cost of crime estimates published by the Home Office for each crime type and the expected amount of crime for each crime type as a result of reoffending. The type of crime associated with reoffending across the offender cohort is derived from the reoffending characteristics of those offenders released from custody or commencing community orders in the first quarter of 2008 as reported in the Police National Computer.

78. This calculation does not reflect costs and benefits which cannot be monetised relating to an impact on reparation, restoration, public confidence, public protection and the level of punishment in the system. Moreover, this calculation does not incorporate all of the potential economic benefits that could accrue to a number of other government departments.
79. Additional economic resource cost would be needed to deliver interventions to those offenders who do not currently receive interventions (prisoners sentenced to less than 12 months). This cost is likely to be far outweighed by the benefit, on the assumption that these offenders will receive a similar level of resource to offenders who do currently receive interventions (prisoners sentenced to over 12 months and those on community orders), and that those offenders who are currently receiving interventions will require no additional resources and thus impose no cost over and above that which is currently being paid.
80. Whilst there is likely to be a strong economic and social case for investing in rehabilitation, the financial case to the MoJ and wider Government is likely to be more balanced. Only around a quarter of the social benefits relate directly to the criminal justice system and roughly 60% of these would accrue to the MoJ. Moreover, MoJ-specific financial benefits are highly dependent on a number of factors including the ability of the MoJ to realise any potential savings through reducing capacity.
81. This analysis is restricted to rehabilitation policy options focused on adult offenders and does not consider the potential impact of policy options focused on juvenile offenders.

Specific Impact Tests

Statutory equality duties

There is a separate Equality Impact Assessment published alongside the Government response to the consultation.

Competition Assessment and small firms impact test

There is no further information at this stage beyond that published in the Impact Assessment associated with the 'Breaking the Cycle' Green Paper.

Carbon Assessment

There is no further information at this stage beyond that published in the Impact Assessment associated with the 'Breaking the Cycle' Green Paper

Other Environment

There is no further information at this stage beyond that published in the Impact Assessment associated with the 'Breaking the Cycle' Green Paper

Health Impact Assessment

There is no further information at this stage beyond that published in the Impact Assessment associated with the 'Breaking the Cycle' Green Paper

Human Rights

There is no further information at this stage beyond that published in the Impact Assessment associated with the 'Breaking the Cycle' Green Paper

Justice Impact Test

See main body of this Impact Assessment.

Rural proofing

There is no further information at this stage beyond that published in the Impact Assessment associated with the 'Breaking the Cycle' Green Paper.

Sustainable Development

There is no further information at this stage beyond that published in the Impact Assessment associated with the 'Breaking the Cycle' Green Paper.

Privacy Impact Test (an MoJ Specific Impact Test)

There is no further information at this stage beyond that published in the Impact Assessment associated with the 'Breaking the Cycle' Green Paper.

Equalities Impact Assessment

There is a separate Equality Impact Assessment published alongside the Government response to the consultation

Post Implementation Review (PIR) Plan – Breaking the cycle

The basis of the review will be a mix of statutory requirements (where, for example, changes in sentencing require statutory provision), policy review and political commitments, reflecting the broad range of options for policy change contained in *Breaking the Cycle*.

Review objective:

The review will have a range of objectives, depending upon the particular policy options being scrutinised. These will include:

- Establishing whether new policy initiatives are operating as anticipated
- Examining the impact of policies (for example, on crime levels, reconviction rates, victim satisfaction and public confidence in the criminal justice system)
- Establishing whether particular policies and combinations of them represent good value for money

Review approach and rationale:

The review will adopt a multi-faceted approach, depending upon the particular policy under review. The main approaches that will be deployed are:

- Review of monitoring data. These data will include routinely collected statistical series such as recorded and British Crime Survey (BCS) crime, reconviction rates and sentencing statistics, public attitude data collected via the BCS, as well as new statistical data collected for specific purposes.
- Process evaluations of particular initiatives or combinations of them, particularly those implemented using pilot or pathfinder approaches.
- Impact evaluations for those initiatives where we anticipate measurable impacts on key outcomes such as reconviction.
- Stakeholder consultation either as a stand alone approach or to complement the other approaches, as appropriate.

Baseline:

We will use several sources of baseline data covering, for example, crime levels, reconviction rates, criminal justice system costs, sentencing disposals, public confidence in the criminal justice system and public attitudes.

Success criteria:

We will use a range of success criteria, reflecting the different aims underlying the policies. The main ones will be:

- Reductions in re-offending attributable to specific policy initiatives or initiatives in combination
- Achievement of better value for money in return for sums invested in the criminal justice system
- Increases in victim satisfaction due to criminal justice system reforms aimed at improving reparation and payback
- Increases in public confidence in the criminal justice system
- Qualitative evidence of a shift in responsibility for aspects of offender rehabilitation to the local level

Monitoring information arrangements:

Much of the monitoring data required is available from existing statistical series on a historical basis and there are plans to continue such data collection over the period covered by the review. These data include:

- Police recorded crime data
- BCS crime data
- Reconviction data from cohorts of offenders, including data on frequency and seriousness of reconvictions
- Sentencing statistics
- BCS data on public confidence in the criminal justice system and on victims views
- Data on criminal justice system costs

Reasons for not planning a PIR:

Not applicable.