

<b>Title:</b> Offender Rehabilitation Bill Impact Assessment <b>IA No:</b> <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> NOMS	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 9/05/2013
	<b>Stage:</b> Legislation
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
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<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
Not quantified	N/A	N/A	No   N/A

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

The offender management system exists to serve a number of purposes: to punish criminals and support them to reform, to protect the public from further harm caused by offenders, and to support victims and witnesses of crime. Whilst there is much that the system does well, there is no masking the fact that it is failing in one of its primary purposes. Too many offenders go through the justice system, serve their sentence and pick up where they left off.

**What are the policy objectives and the intended effects?**

The provisions in the Offender Rehabilitation Bill aim to address high re-offending rates, particularly amongst offenders released from short custodial sentences of less than 12 months.

We intend to extend licence after release to include offenders sentenced to short custodial sentences to reduce the high re-offending rates of these offenders. This group of offenders, along with those serving sentences of 12 months or more but less than 2 years, will also be subject to a new supervision period for the purposes of rehabilitation which, when added to licence, will mean both groups will be subject to 12 months of statutory rehabilitation after release. The Bill will also create a new drug appointments requirement that can be imposed as a licence or supervision requirement, and expand the scope of drug testing after release to include Class B drugs. The Bill will also give greater flexibility in the delivery of community orders and suspended sentence orders, to encourage innovation in responding to the needs of offenders serving these sentences.

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

Option 0

Do nothing.

Option 1

We propose to legislate to take forward the following reforms:

- Extending rehabilitative provision to more offenders after release from custody;
- Extending drug testing to Class B drugs and require offenders to attend drug appointments after release where appropriate;
- Increasing flexibility in delivery of sentences served in the community.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> To be determined					
Does implementation go beyond minimum EU requirements?				N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b> N/Q	<b>Non-traded:</b> N/Q

***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: 09/05/13

# Summary: Analysis & Evidence

# Policy Option 1

Description: Offender Rehabilitation Bill

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/Q	High: N/Q	Best Estimate: N/Q

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	Not quantified	£30m	Not quantified

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

We have estimated that there could be a cost of around £25m per year associated with breach of licence and supervision conditions for short sentenced offenders.

There may be an additional burden to the police from extending supervision in the community to offenders released from custodial sentences of less than 12 months, as police time will be needed to deal with offenders who fail to comply with the conditions of supervision. Our initial estimate is that this could cost up to £5m per year.

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

There will be a cost of providing rehabilitative services to offenders released from custodial sentences of less than 12 months. This cost will be dependent on the outcome of competition.

There will be costs associated with drug testing and treatment, and costs associated with sanctions if offenders fail to comply. As we do not know which offenders probation providers will choose to test, we have not quantified these costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	Not quantified	Not quantified	Not quantified

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

N/A

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

We expect that extending licences to short sentenced offenders and increasing flexibility in community orders and suspended sentence orders will lead to reduced re-offending and a reduction in the number of offenders who return to the system. This has the potential to cut prison and probation costs, reduce court backlogs and allow for savings on legal aid provision. There is also the potential for reduced social costs associated with re-offending behaviour as crime imposes costs on society, notably the physical, emotional and financial impact on victims.

### Key assumptions/sensitivities/risks

Discount rate (%)

N/A

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	N/A

## Evidence Base

1. The proposals in the Bill will impact on 4 groups of offenders:
  - Offenders sentenced to custodial sentences of less than 12 months, as we intend to extend rehabilitative provision to these offenders.
  - Offenders sentenced to custodial sentences of 12 months or more but less than 2 years, as we intend to extend the duration of their rehabilitative provision.
  - Offenders released from custody whose criminal behaviour is related to the misuse of drugs, as we intend to extend drug testing to Class B drugs and require offenders to attend drug appointments after release where appropriate.
  - Offenders serving community orders and suspended sentences, as we intend to increase the flexibility of these sentences.

### Custodial sentences of less than 12 months

2. In 2011/12, around 50,000 adult offenders were released from prison after serving custodial sentences of less than 12 months<sup>1,2</sup>. The majority of these offenders are not managed in the community after release.
3. 57.6% of adult offenders sentenced to less than 12 months' immediate custody and released in the year ending December 2010 re-offended within one year, with 17,560 re-offenders committing 83,107 further offences<sup>3</sup>.
4. Drug dependency and mental health issues appear to be particularly prevalent amongst short sentenced prisoners. A 2005/06 study showed that 33% of prisoners serving custodial sentences of less than 12 months self-reported as having a drug problem and 21% as having a mental health or emotional problem. 40% of these offenders said they needed help to improve their education, and 39% that they needed help to improve their work-related skills<sup>4</sup>.
5. For all offenders released from custodial sentences (of any length) in 2008, only 10% were in P45 employment at any point during the 13 weeks following their release, with 48% claiming out-of-work benefits in the same period. For the same offenders, two years after release from custody, only 29% had been in P45 employment, and 75% had claimed out of work benefits<sup>5</sup>.
6. Almost half (47%) of the prison population given a custodial sentence of less than 12 months in 2011 had 15 or more previous convictions or cautions. Only 6% had no previous convictions or cautions<sup>1</sup>.

### Custodial sentences of 12 months or more but less than 2 years

7. In 2011/12, around 15,000 adult offenders were released from prison after serving custodial sentences of 12 months or more but less than 2 years<sup>1</sup>. These offenders are managed in the community after release, for a length of time equal to approximately half their sentence length.
8. 37.9% of adult offenders sentenced to determinate custodial sentences of 12 months or more but less than 2 years, and released in the year ending March 2011, re-offended within a year, with 4,442 re-offenders committing 14,360 further offences<sup>3</sup>.

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<sup>1</sup> Offender management caseload statistics quarterly publication, Ministry of Justice

<sup>2</sup> This figure includes offenders released from court after serving their sentence on remand. Note that these volumes do not refer to unique offenders, as some offenders begin multiple sentences each year.

<sup>3</sup> Proven re-offending statistics quarterly publication, Ministry of Justice

<sup>4</sup> Results from the Surveying Prisoner Crime Reduction (SPCR) survey, Ministry of Justice, 2012

<sup>5</sup> Offending, employment and benefits – emerging findings from the data linkage project, Ministry of Justice, 2011. Employment data is from HMRC's P45 data. P45 employment spells often have estimated start or end dates. In addition, P45 employment spells do not usually record employment paid at levels below tax thresholds, self-employment or cash-in-hand informal economy work. Therefore care must be taken in interpreting findings relating to employment outcomes.

9. Characteristics such as homelessness, drug and alcohol dependency, mental illness and unemployment are common amongst these offenders. A study in 2005/06 showed that 19% of prisoners serving custodial sentences of 12 months or more but less than 2 years self-reported as having a drug problem and 15% as having a mental health or emotional problem. 40% of these offenders said they needed help to improve their education, and 39% that they needed help to improve their work-related skills<sup>4</sup>.

### Misuse of drugs by offenders

10. Around two-thirds (64%) of prisoners surveyed for a 2005/06 study had ever used Class A drugs, and nearly three-quarters (74%) reported ever having used Class B and/or Class C drugs<sup>6</sup>.
11. Figure 1 shows the proportion of surveyed prisoners who reported that they had ever used different types of drugs. Cannabis was the most frequently reported drug, with 71% of prisoners reporting having ever used the drug. Of these prisoners, 77% reported using cannabis in the year before custody, and of these, 85% reported using it in the four weeks before custody<sup>6</sup>.

**Figure 1: Proportion of prisoners who reported ever using drugs, 2005/06**

Drug	Proportion of surveyed prisoners who have ever used this drug
Cannabis	71%
Cocaine	45%
Crack cocaine	43%
Ecstasy	42%
Amphetamines	41%
Heroin	40%
LSD	29%
Unprescribed tranquilizers	28%
Unprescribed methadone	20%

Source: *Surveying Prisoner Crime Reduction (SPCR)*<sup>6</sup>

12. The 2005/06 study found that drug use amongst the surveyed prisoners has been found to be strongly associated with reconviction on release, with the rate of reconviction more than doubling for prisoners who reported using drugs in the four weeks before custody compared with prisoners who had never used drugs (62% compared with 30%)<sup>7</sup>. Figure 2 shows the association between reconviction in the year after release from custody and class of drug use in the month before custody.

**Figure 2: Association between reconviction in the year after release from custody and class of drug use in the month before custody, 2005/06**

Response	Percentage reconvicted
Poly-drug user in last month <sup>8</sup>	71%
Class A only in last month	61%
Class B and/or C (but not Class A) in last month	48%
No drugs in last month, but had previously used drugs	39%
Never used drugs	30%

Source: *Surveying Prisoner Crime Reduction (SPCR)*<sup>4</sup>

<sup>6</sup> Gender differences in substance misuse and mental health amongst prisoners, Ministry of Justice, March 2013.

<sup>7</sup> Ministry of Justice Compendium of reoffending statistics and analysis (November 2010) Chapter five: Surveying Prisoner Crime Reduction

<sup>8</sup> A poly-drug user is defined as one who used Class A drugs and Class B drugs, or Class A and Class C, or Class A and Class B and Class C drugs

## Community orders and suspended sentence orders

13. In 2011/12, around 200,000 adult offenders began community orders or suspended sentence orders<sup>1,9</sup>.
14. 34.1% of adult offenders who began a community order or suspended sentence order in the year ending December 2010 re-offended within one year, with 49,636 re-offenders committing 157,796 offences<sup>3</sup>.
15. Offenders serving community orders and suspended sentence orders can have complex needs. According to a study of offenders serving community orders, 23% of these offenders believed they needed help with a mental health condition, 19% believed they needed help with their alcohol usage and 23% believed they needed help with their drug use<sup>10</sup>. This study only surveyed offenders on NOMS management tiers 2-4<sup>11</sup>.

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<sup>9</sup> Note that these volumes do not refer to unique offenders, as some offenders begin multiple sentences each year. This figure includes the offenders starting probation monitored community and suspended sentence (Offender management caseload statistics quarterly publication, Ministry of Justice) as well as offenders who began contractor monitored stand-alone curfews.

<sup>10</sup> The Offender Management Community Cohort Study (OMCCS) is a longitudinal study which tracks a cohort of adult offenders who commenced a community order between October 2009 and December 2010. The findings presented here are based on the OMCCS survey; a total of 2,919 interviews were achieved at the 'start of order' baseline interviews, representing a response rate of 44 per cent. The results have been weighted to be nationally representative for offenders at NOMS management tier 2 and above. The survey results presented here have not undergone significance testing.

<sup>11</sup> A system of 'tiering' of offenders is used to identify levels of resource to be directed towards offenders. Offenders are assigned to one of four 'tiers' during their management by the National Offender Management Service, based on a number of factors including their risk of reoffending, with the aim of directing appropriate resource towards them. Tier 1 is the lowest level, where the aim is largely punishment, whilst substantial management is required of Tier 4 offenders with the aim of controlling risk.

# Impact Assessment

## Introduction

16. The reforms contained in the Offender Rehabilitation Bill seek to address high re-offending rates and to allow for increased efficiency and value for money in the delivery of services to offenders in the community.

## Organisations and groups in scope of these proposals

17. The main groups affected by these proposals are:

- Ministry of Justice
- National Offender Management Service (“NOMS”)
- Probation providers
- HM Courts & Tribunals Service (“HMCTS”)
- Police forces
- Offenders
- Victims
- Other Government Departments

## **Option 0** – do nothing: maintain the current sentencing and release structure

18. Maintaining the current lack of provision for short sentenced offenders would be unlikely to achieve reductions in their high re-offending rates. Maintaining the current framework for community orders and suspended sentence orders may not give providers full flexibility to innovate in delivering reductions in re-offending.

## **Option 1**

19. We propose to take forward the following reforms:

- Extending rehabilitative provision to short sentenced offenders, so that they are supervised in the community following their release from custody.
- Extending drug testing to Class B drugs and requiring offenders to attend drug appointments.
- Increasing flexibility in the delivery of community orders and suspended sentence orders, by combining the supervision and activity requirements into a single, rehabilitative requirement.

## **Extending rehabilitative provision to offenders released from short custodial sentences**

### **Aims and outcomes for the policy**

20. To reduce the re-offending of offenders released from short custodial sentences by extending the scope of rehabilitative services to cover these offenders.

### **Costs**

21. There will be court costs associated with breaches of this provision, and costs of providing sanctions for these breaches. These will include additional pressure on the prison population arising out of offenders being recalled to custody and further electronic monitoring starts. Initial estimates of these costs are of the order of £25m per year.

22. There will be a cost associated with extending rehabilitative services in the community to offenders released from custodial sentences of less than 12 months. This cost will be dependent on the

outcome of competition. However, we expect there to be significant downward pressure on costs from competing the delivery of rehabilitation services.

23. There may be an additional burden to the police from extending supervision in the community to offenders released from custodial sentences of less than 12 months, as police time will be needed to deal with offenders who fail to comply with the conditions of supervision. Our initial estimate is that this could cost up to £5m per year. We will work closely with Home Office colleagues to monitor the impact on police resources with a view to handling the costs under the terms of the trade agreement.

### **Benefits**

24. We want to see providers tackling offenders' broader life management issues – for example by helping them to find accommodation, to access training, employment and other public services, to address their attitudes, thinking and behaviour, and to connect them to mental health, and drug and alcohol rehabilitation programmes.
25. There is also the potential for reduced social costs associated with re-offending behaviour as crime imposes costs on society, notably the physical, emotional and financial impact on victims. The National Audit Office have estimated the cost of re-offending by recently released short sentenced ex-prisoners as being somewhere between £7 billion and £10 billion<sup>12</sup>.
26. We want to see offenders desist completely from crime, to reduce the number of offenders who return to the system. This has the potential to cut prison and probation costs, reduce court backlogs and allow for savings on legal aid provision. We have not quantified these benefits as we can not predict the success rate of the providers.

### **Risks**

27. There is a risk that the changes to custodial sentences of less than 12 months could lead to changes in sentencer behaviour, and therefore affect the number of short custodial sentences, and the length of these sentences.

## **Extend drug testing to Class B drugs and require offenders to attend drug treatment**

### **Aims and outcomes for the policy**

28. We want to give providers the means to tackle offenders' drug misuse effectively, as the evidence shows that drug misuse is associated with high levels of re-offending. It will be up to probation providers to decide which offenders they wish to drug test and secure treatment for.

### **Costs**

29. There will be costs associated with drug testing and treatment, and costs associated with sanctions if offenders fail to comply. As we do not know which offenders probation providers will choose to test, we have not quantified these costs.

### **Benefits**

30. We want to enable providers to tackle offenders' drug misuse issues and to support offenders to desist from crime. We have not quantified these benefits as we can not predict the success rate of the probation providers.

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<sup>12</sup> Managing offenders on short custodial sentences, NAO, 2010.

## **Increased flexibility in the delivery of non-custodial sentences**

### **Aims and outcomes for the policy**

31. To deliver greater flexibility in the delivery of sentences served in the community (community orders and suspended sentence orders).

### **Costs**

32. We do not anticipate any significant costs arising from this proposal.

### **Benefits**

33. We expect that increasing flexibility in the delivery of community orders and suspended sentence orders will give the providers of probation services the opportunity to improve innovation in the delivery of services, leading to reduced re-offending. This has the potential to cut prison and probation costs, reduce court backlogs and allow for savings on legal aid provision. We have not quantified these benefits as we can not predict the success rate of the providers.

### **Risks**

34. There is a risk that the changes to community orders and suspended sentence orders could lead to changes in sentencer behaviour, and therefore affect the number of these orders imposed and the requirements imposed under them.