

<b>Title:</b> Sentencing Bill – Changes relating to serious sexual offences <b>IA No:</b> MoJ071/2023 <b>RPC Reference No:</b> N/A <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> N/A	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 14/11/2023			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
	<b>Contact for enquiries:</b> Andrew.spence1@justice.gov.uk, Head of Legislation, Ministry of Justice.			
<b>Summary: Intervention and Options</b>				<b>RPC Opinion:</b> Not applicable

Cost of Preferred (or more likely) Option			
<b>Total Net Present Social Value</b> £2,885m	<b>Business Net Present Value</b> N/A	<b>Net cost to business per year</b> N/A	<b>Business Impact Target Status</b> N/A

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

There were 68,000 rape offences recorded by the Police in the year to June 2023, as well as a wide backlog of high numbers of all types of sexual offending. Many of the perpetrators of these crimes continue to offend even if they have been prosecuted, with some cases resulting in an escalation of behaviours<sup>1</sup>. Ensuring rapists and other serious sexual offenders serve their full custodial term in prison will keep these offenders off the streets for longer, without the opportunity to reoffend and therefore keep the public safe.

Government intervention is required as the changes need primary legislation.

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

The policy intention is to ensure the public feels and is protected from these concerning offenders. Rape is deeply traumatic for the victim and is affecting public confidence in the justice system. When asked about their experiences of the criminal justice system, a number of respondents to a 2020/2021 survey of victims and survivors of violence against women and girls, expressed concern about sentencing and felt that “they had not seen justice done due to a perception of lenient sentences”<sup>(2)</sup>.

**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: Implement legislative measure: Ensure that convicted rapists (and those convicted of the most serious sexual offences) must serve 100% of their custodial term in prison. This option would add rape and the other most serious sexual offences to the special custodial Sentence for certain Offenders of Particular Concern (SOPC) regime, meaning if the court does not hand down a life sentence or an Extended Determinate Sentence (EDS), it must impose a SOPC. It would also alter the release point of offenders who receive an EDS or SOPC on conviction of these offences so that they would now serve the entirety of the appropriate custodial term in custody.

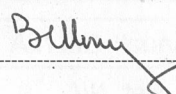
The Government’s preferred option is Option 1 as this best meets the policy objectives.

**Will the policy be reviewed?** It will be reviewed within the usual ongoing review of the sentencing framework.  
**If applicable, set review date:** N/A

Is this measure likely to impact on international trade and investment? N/A				
Are any of these organisations in scope?	<b>Micro</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A 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:

14.11.23

<sup>1</sup> Tackling violence against women and girls strategy (accessible version) - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>2</sup> Tackling violence against women and girls ([publishing.service.gov.uk](http://publishing.service.gov.uk))

## Summary: Analysis & Evidence

**Description:** Changes relating to serious sexual offences

### FULL ECONOMIC ASSESSMENT

Price Base Year 23/24	PV Base Year 24/25	Time Period 40 years	Net Benefit (Present Value (PV)) (£m)		
			Low: -2,416	High: -3,396	Best Estimate: -2,885
COSTS (£m)	Total Transition (Constant Price)		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low	954.6	24 years	103.7	2,642	
High	1,364		145.6	3,700	
Best Estimate	1,153		123.7	3,147	

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

The key cost associated with this policy is the increase in overall prison population. In MoJ's Best Estimate scenario, there will be an additional 1,500 prison places required by March 2034, and an additional 2,850 required by March 2048, with an additional running cost to the prison service of £123.7m per year. Additional prison capacity will need to be constructed which is estimated to cost the prison service a total minimum of £1,153m over the next 40 years. The net present cost over this period is estimated to be £3,147m for the best estimate option.

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

A later release date could disrupt offenders' and family relationships. A reduced licence period for some cohorts may also reduce opportunities for rehabilitation in the community, leading to higher reoffending rates due to less time spent in the community undergoing post-custody rehabilitation activity from the probation service. Anything that increases prison demand could result in crowding in prisons in future. This would worsen the living conditions in prison, affect the stringency of the implemented regime, and the ratio of staff to prisoners.

BENEFITS (£m)		Total Transition (Constant Price)		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		N/A		12.2	225.7
High		N/A		16.4	304.3
Best Estimate		N/A		14.1	261.9

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

HMPPS is expected to benefit from a decrease in probation and Electronic Monitoring caseload of 2,200 by March 2043 in the Best Estimate scenario. The estimated annual saving for HMPPS is c.£12.9m for Probation/Electronic Monitoring Services. The Parole Board is also expected to benefit from a decrease in the number of hearings required for offenders who will serve their full sentence in custody. The estimated annual saving for the Parole Board is c.£1.3m.

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

By ensuring serious offenders spend more time in custody, victims and the wider public will be protected for longer. Ensuring the public believe the criminal justice system is fairer may also be significant in securing cooperation from victims and witnesses, for example in giving evidence, and in encouraging victims to come forward. Local authorities providing accommodation services when these offenders are released into the community may incur savings due to the reduced time on licence (although costs of social care in custody are higher).

Key assumptions/sensitivities/risks			Discount rate (%)	3.5%
The impacts of this option have been estimated using sentencing data to give the expected number of future cases and their average custodial sentence length (ACSL). For in-scope offences, future caseloads are based on 2022 volumes with an uplift to reflect expected increases in the sexual offender prison population. This assumption has a significant impact on the number of prison places required. The sentencing data is based on primary offence and so an assumption has been used on the number of additional offenders who have a secondary offence. Due to uncertainty in how many people may be sentenced for these offences, a range of scenarios have been modelled that vary these factors. A 20% optimism bias has been applied to all estimated financial impacts, as is standard practice.				

#### BUSINESS ASSESSMENT (Measure 1A)

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



# Evidence Base

## A. Background

### Sentencing for rape: Current position.

1. The offence of rape (s.1 of the Sexual Offences Act 2003) has a maximum penalty of life imprisonment and those convicted of rape can be given either a standard determinate sentence (SDS), an extended determinate sentence (EDS) or a discretionary life sentence depending on the seriousness of the offending.
2. Currently, rapists whose offending is considered to be sufficiently serious may be given a discretionary life sentence whereby they must serve the whole of their minimum custodial term in prison before being considered for release by the Parole Board. If released, they will then be subject to a life licence. Rapists whose offending is not considered sufficiently serious to merit a life sentence but who are judged to be 'dangerous' (in that there is a significant risk of further serious offending) will be given an EDS. Those serving an EDS (apart from serious terrorist offenders) are considered for discretionary early release by the Parole Board at the two thirds point of the custodial term but if not released at that point, they must serve the entirety of the custodial term. They will then be subject to an extended licence period (which can be up to a maximum of 8 years for sexual offenders).
3. The remainder of those convicted of rape and given a custodial sentence will be given an SDS (except for two child sex offences which may receive a special custodial Sentence for certain Offenders of Particular Concern (SOPC)). Currently, offenders who have been convicted of specified serious and violent offences (including rape) and who are given a sentence of 4 years or more, must serve two thirds of their sentence before being automatically released to serve the remainder of the sentence on licence in the community.
4. Rape is deeply traumatic for the victim and is affecting public confidence in the justice system, leading to an ambition in the "Tackling violence against women and girls" strategy to increase confidence in the system to solve these crimes<sup>1</sup>. It is important to take action so that people who commit these serious sexual offences serve their full custodial term in prison and to ensure the public feels protected from these concerning offenders.

### Problem under consideration

5. The offence of rape and the other most serious sexual offences are worrying the public. Given the unique nature of this offending, the significant amount of public concern relating to these offences at present, and the need to improve public confidence that the justice system appropriately addresses and punishes this offending, the offence of rape, and the other most serious sexual offences, are the focus of consideration.

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<sup>1</sup> Tackling violence against women and girls strategy (accessible version) - GOV.UK ([www.gov.uk](http://www.gov.uk))

## B. Rationale and Policy Objectives

### Rationale

6. The conventional approach to government intervention is based on efficiency or equity arguments. Government may consider intervening if there are strong enough failures in the way markets operate, for example monopolies overcharging debtors, or if there are strong enough failures in existing government interventions, such as outdated regulations generating inefficiencies. In all cases the proposed intervention should avoid generating a further set of disproportionate costs and distortions. Government may also intervene for reasons of equity (fairness) and for re-distributional reasons (e.g., reallocating resources from one group in society to another).
7. In this instance, the rationale for intervention is equity: given the unique nature of the offences in question, and the number of people who are victims of this offence, ensuring rapists and other serious sexual offenders serve their full custodial term in prison will keep these offenders off the streets for longer, without the opportunity to reoffend and therefore keep the public safe.
8. The changes are primarily focussed on the offence of rape and the other most serious sexual offences (with the highest available penalty of life imprisonment). These crimes are too common – there were 68,000 offences of rape recorded by the Police in the year to June 2023 within a wider backdrop of high numbers of all types of sexual offending. Considering the impact beyond the victim, ‘for the estimated 122,000 rape offences in 2015/16, the Home Office estimated the total socio-economic cost to be £4.8 billion in 2015/16 (circa £5.5 billion in today’s prices)’<sup>2</sup>.

### Policy Objectives

9. The policy objective is to ensure the public feels safe and is protected from these concerning sexual offenders.
10. Rape offences risk significantly affecting public confidence in the justice system. When asked about their experiences of the criminal justice system, a number of respondents to a 2020/2021 survey of victims and survivors of violence against women and girls, expressed concern about sentencing and felt that “they had not seen justice done due to a perception of lenient sentences”<sup>3</sup>. The objective is to keep rapists in prison for longer to actively reduce this perception, as well as removing the opportunity to reoffend during that period. Research shows that ‘many perpetrators of these crimes continue to offend even if they have been prosecuted, with some cases resulting in an escalation of behaviours’<sup>4</sup>.

## C. Affected stakeholder groups, organisations and sectors

11. Below are listed the main groups that will be affected by the options in the IA.

- Victims
- HM Prison and Probation Services (HMPPS)
- Parole Board
- HM Courts and Tribunals Service (HMCTS)
- The public

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<sup>2</sup> Violence against women and girls services: commissioning toolkit (accessible) - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>3</sup> Tackling violence against women and girls (publishing.service.gov.uk)

<sup>4</sup> Tackling violence against women and girls strategy (accessible version) - GOV.UK ([www.gov.uk](http://www.gov.uk))



- Offenders and their families
- Police service
- Department for Health and Social Care (DHSC)/National Health Service (NHS)
- Local Authorities

## D. Description of options considered

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

- **Option 0: Do nothing:** Make no changes to the current sentencing framework
- **Option 1: Implement legislative measure:** Ensure that convicted rapists (and those convicted of the most serious sexual offences) must serve 100% of their custodial term in prison.

2. The preferred option is **Option 1** as it best supports the policy objectives.

### Option 0: Do nothing

3. Under option 0, those convicted of rape will continue to be given either a standard determinate sentence (SDS), an extended determinate sentence (EDS) or a discretionary life sentence depending on the seriousness of the offending. This option would therefore not meet the Government's policy objectives.

### Option 1: Implement legislative measure: Ensure that convicted rapists (and those convicted of the most serious sexual offences) must serve 100% of their custodial term in prison.

4. Under this option, rapists, and those convicted of serious sexual offences, will now serve the entirety of the custodial term in prison, with no referral to the Parole Board, and release on licence to be automatic at the end of that period.
5. These provisions will add rape and the other most serious sexual offences to the Sentence of Particular Concern "SOPC" regime, meaning if the court does not hand down a life sentence or an EDS, it must impose a SOPC. It will also alter the release point of offenders who receive an EDS or SOPC on conviction of these offences so that they will now serve the entirety of the appropriate custodial term in custody, with no referral to the Parole Board at the two-thirds point of the term, meaning that there will be no automatic or discretionary early release before the end of that period. Both measures will ensure these offenders will still have a licence period:- of 12 months for those serving a SOPC and up to 8 years, as determined by the court, for those serving an EDS.
6. These amendments to EDS and SOPC sentences will also apply to offenders under the age of 18. Applying the changes to EDS to children will mirror the change made for serious terrorist offences in the Counter-Terrorism and Sentencing Act 2021, which applied to both adults and children. The changes to SOPC will apply to children who are not assessed as dangerous but who have been convicted of the serious relevant offences that are deemed inherently concerning. While custody should always be a last resort for children, it is important that where a custodial sentence has been imposed for these serious offences, offenders are detained for the duration of their custodial term to keep the public protected for longer and to ensure rehabilitative interventions can be conducted to minimise the risks of recidivism. Applying the changes to EDS to children will mirror the change made for serious terrorist offences in the Counter-Terrorism and Sentencing Act 2021, which applied to both adults and children. The changes to SOPC will apply to children who are not assessed as dangerous but who have been convicted of the serious relevant offences that are deemed inherently concerning.

7. The sexual offences which are included in these changes are:

- Section 1 (rape)
- Section 2 (assault by penetration)
- Section 4, in the circumstances outlined in subsection (4) (causing a person to engage in sexual activity involving penetration without consent)
- Section 5 (rape of a child under 13) – this offence can already get a SOPC and will remain
- Section 6 (assault of a child under 13 by penetration) – this offence can already get a SOPC and will remain
- Section 8, in the circumstances outlined in subsection (2) (causing or inciting a child under 13 to engage in sexual activity with penetration)
- Section 30, in the circumstances outlined in subsection (3) (sexual activity involving penetration with a person with a mental disorder impeding choice)
- Section 31, in the circumstances outlined in subsection (3) (causing or inciting a person with a mental disorder impeding choice, to engage in sexual activity involving penetration).
- Section 34, in the circumstances outlined in subsection (2) (inducement, threat or deception to procure sexual activity with a person with a mental disorder with penetration)
- Section 35, in the circumstances outlined in subsection (2) (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception with penetration)
- Section 47, in the circumstances outlined in subsections (3) and (6) (paying for the sexual services of a child under 13 with penetration)
- Section 62, in the circumstances outlined in subsection (3) (committing an offence with intent to commit a sexual offence where the offence is committed by kidnapping / false imprisonment).
- All inchoate versions of all the above offences
- Abolished versions of the above offences

8. Cost and Benefit Analysis

1. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
2. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the proposals under consideration.
3. IAs place a strong focus on monetisation of costs and benefits. There are often, however, important impacts which cannot be monetised sensibly. These might be impacts on certain groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.
4. The costs and benefits under Option 1 are compared to Option 0, the counterfactual or “do nothing” scenario. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).



5. The annual costs and benefits are presented in steady state throughout this IA. This IA has an appraisal period of 40 years and a base year of 2024/25. This is because the sentencing changes under Option 1 will only have an impact beyond the standard 10 year appraisal period.
6. All cost estimates, unless stated otherwise, are annualised figures in 2023/24 prices. Where costs are under £1,000m, they are rounded to nearest £100k. Where costs are over £1,000m, they are rounded to the nearest £1m. All volume estimates, unless stated otherwise, are rounded to the nearest 50 places.
7. Unless otherwise stated, a 20% optimism bias has been applied to all impacts (costs and benefits).
8. As is the normal practice in MoJ IAs, the impacts on offenders associated with upholding the sentence of the court are not included in the costs and benefits of each option. However, as offenders are expected to be released under Option 1, there may still be impacts on them after this point.

### Method

9. The impact of Option 1 depends on the volume of future cases and their given sentence lengths, which is inherently uncertain. Numbers sentenced in 2022 for rape or a serious sexual offence as their primary offence, and their average sentence lengths have been used as a baseline. These are then increased using assumptions on the expected increase in future volumes of sexual offenders in the prison population; and for those who will have rape or a serious sexual offence as a secondary offence, who will also be affected by this policy.
10. To reflect this uncertainty, the impacts of these measures are presented using 3 scenarios. The Central scenario represents MoJ's best estimate of how we expect the prison population to change following implementation. Conversely, the Low scenario represents one where there is the smallest change in the size of the prison population whereas the High scenario represents one where the largest change in the size of the prison population.
11. The details of each scenario are as follows:
  - **Low:** We assume that an additional 5% of offenders above those with rape or serious sexual offences as a primary offence will have secondary offences that mean they would serve longer in custody under these measures, based on an internal assessment of the offence-mix in the current prison population. In this scenario, we have assumed there will be a smaller increase in the number of people who will be serving a sentence for a sexual offence in future.
  - **Central/Best:** We assume that an additional 10% of offenders have secondary offences that mean they would serve longer in custody under these measures. In this scenario, we have assumed there will be a modest increase in the number of people who will be serving a sentence for a sexual offence in future.
  - **High:** We assume that an additional 20% of offenders have secondary offences that mean they would serve longer in custody under these measures. In this scenario, we have assumed there will be a larger increase in the number of people who will be serving a sentence for a sexual offence in future.
12. Option 1 will also apply to children who are sentenced to custody for these offences. In 2022, 10 children were sentenced to a standard determinate sentence for these offences, with an average custodial sentence length of 43 months. Given the length of these sentences, it is assumed the vast majority of this impact will occur in the adult prison estate as these children would move to adult prisons to complete their sentence.

13. For the purposes of this IA, it has been assumed that this measure will be implemented in April 2024. Commencement will only take place when there is sufficient prison capacity to meet the expected increase in demand, and so the actual implementation date is uncertain and may be later than assumed.

**Option 1: Implement legislative measure: Ensure that convicted rapists (and those convicted of the most serious sexual offences) must serve 100% of their custodial term in prison.**

**Costs of Option 1**

Monetised Costs

*Prison Service*

14. It is estimated that these measures will increase the prison population by between 2,350 and 3,400 in steady state (which is reached in 2047/48), with a best estimate of 2,850. This is due to longer custodial periods served by offenders in the affected cohort. Across all three scenarios, the increase in the prison population is expected to reach c.55% of this steady state impact within the first 10 years of the introduction of this option.
15. It has been assumed that any policy changes which lead to additional demand on the prison service will require new prison places to be built. Therefore, construction costs of new-build prisons incurred by these measures have been included, in addition to the cost of running an existing prison place for a year, which includes staffing, estate and other resource costs.
16. The annual running cost of a prison place is assumed to be approximately £51,700. This is based on the published cost per prison place in 2021/22 of £46,696<sup>5</sup> inflated to current (2023/24) prices. The annual running cost of additional prison places is estimated to be between £103.7m and £145.6m, with a best estimate of £123.7m.
17. In order to accommodate the additional prison place demands, an additional 2,350 to 3,400 prison places will need to be constructed by 2047/48. It is assumed that the minimum construction cost per each additional new place is £250,000 in 2019/20 prices. The total transition cost for the construction of additional prison capacity for these measures is estimated to be between £954.6m to £1,364m, with a best estimate of £1,153m.
18. The net present cost of these measures to the prison service over the 40-year appraisal period is estimated to be £3,147m in the Central scenario and ranges from £2,642m in the Low scenario to £3,700m in the High scenario.

Non-Monetised Costs

*Prison Service*

17. There are potential wider impacts of these measures that it has not been possible to quantify due to the limited evidence of the impact of longer prison terms.
18. There is a potential transitional risk to prison stability in the period following implementation. Those prisoners sentenced under these measures will serve longer in custody than other prisoners given an equivalent sentence prior to the introduction of the policy. This could lead

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<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1140557/costs-per-place-and-costs-per-prisoner-2021-to-2022-summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1140557/costs-per-place-and-costs-per-prisoner-2021-to-2022-summary.pdf)



to increased tensions in prison establishments, with consequential impacts on prisoner violence or self-harm.

19. Anything that increases prison demand could result in crowding in prisons in future. Although crowding is not in and of itself a cause of prison violence, it could impact upon the ratio of staff to offenders and the ability to provide a full regime of activities including time out of cells, a factor which is associated with increased levels of violence<sup>6</sup> <sup>7</sup>. Prisons that are at full/over capacity may also choose to implement a more stringent regime in order to manage the population and therefore risk an increase in violence. As overcrowding in prisons increases, cleanliness and other physical conditions in prison are also likely to decline which might have negative effects on prison safety, as well as the mental/physical health of prisoner.

#### *Offenders and their families*

20. If prisoners remain in custody for longer, this could have a negative impact on their families as they will be apart for longer. Living with immediate family post-release also appears to be a protective factor against reoffending<sup>8</sup>. Therefore, being in prison for longer periods could increase the risk of relationship breakdown thereby removing this protective factor and increasing the risk of reoffending.
21. Prisoners affected by these measures will serve a shorter period on licence to support their transition into the community. It is unknown how this will impact upon successful reintegration into society, but there is a risk that this could increase demand on prisons to provide offending behaviour interventions while in custody and reduce the capacity of probation services to provide the full range of rehabilitative services. This in turn could impact on the likelihood that the affected offenders could reoffend and could cause additional costs for the prison service.

#### *Health and social care*

22. NHS England and NHS Wales are responsible for commissioning and delivering health services in prisons in England and Wales. With some prisoners in custody for longer, there will be an impact on the provision of healthcare in prison, which has higher costs than provision of healthcare in the community. It has not, however, been possible to quantify this.
23. In particular, ageing prisoners currently require social care to be provided in custody. While there will be a reduced period in the community over which any care is required, the costs of social care in custody can be higher, so this could result in a net cost to the Department of Health and Social Care and local authorities in England, and to the Welsh Government. Again, it has not been possible to quantify this.

### **Benefits of Option 1**

#### Monetised Benefits

##### *Probation Services & Electronic Monitoring Service*

24. Under an SDS, an offender will spend a proportion of their total sentence in custody – this is half for the vast majority of people on an SDS and two-thirds for the most serious sexual and violent offenders sentenced to 4 years or more – and the remainder under licence supervision in the community. Because of this, any percentage increase in the proportion of

<sup>6</sup> <https://www.gov.uk/guidance/offending-behaviour-programmes-and-interventions>

<sup>7</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/737956/understanding-prison-violence.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737956/understanding-prison-violence.pdf)

<sup>8</sup> <https://www.gov.uk/government/publications/results-from-the-surveying-prisoner-crime-reduction-survey>

the sentence spent in custody under the SDS measure will result in an equal percentage reduction in the proportion of sentence on licence.

25. For the measure affecting current EDS and SOPC sentences, an offender would have a similar licence period to what they have currently. This means that there is no impact on probation services for that measure.
26. It is estimated that there will be between 1,950 to 2,600 fewer offenders under licence supervision by 2042/43 for the Low and High scenarios, respectively. This is based on the increases in the prison population detailed in paragraph 14 and taking into account that offenders affected by the SDS measure will enter licence supervision in the last 12 months of their sentence. While this means that those serving sentences of less than 2 years for the SDS measure would serve longer under probation service supervision than they would currently, the seriousness of the affected offences is such that the majority of sentences are higher than 2 years.
27. Although the shorter licence periods for the cohort affected by this option will result in a reduction in the total number of offenders under probation service supervision at any time, most offenders will still undergo much of the same probation activity as under the current sentencing framework. This means any savings will not be as much as the full cost of a single offender's cost to the probation service in a year.
28. Based on estimates of probation costs, the estimated annual costs avoided for probation services (in 2023/24 prices) range from between £7.9m to £10.5m for the Low and High scenarios respectively, with a best estimate of £9.0m<sup>9</sup>.
29. Based on estimates of electronic monitoring costs, the estimated annual costs saved for electronic monitoring (in 2023/24 prices) range from between £3.4m to £4.4m for the Low and High scenarios respectively, with a best estimate of £3.8m.
30. This results in an annual saving to HMPPS (in 2023/24 prices) of between £11.3m and £14.9m for the Low and High scenarios respectively, with a best estimate of £12.9m.

#### *Parole Board*

31. Under a current EDS or SOPC sentence, an offender will serve a proportion of their total sentence in custody and then must be approved for release by the Parole Board. This involves a paper hearing and an oral hearing. For the measure affecting EDS or SOPC sentences, offenders in the affected cohort will serve their full sentence length in custody. Because of this, hearings would not take place, which will reduce the caseload for the Parole Board.
32. It is estimated that there will be between 150 to 300 offenders who would not have hearings by 2047-48 for the Low and High scenarios respectively, with a best estimate of 250 offenders.
33. The cost of a paper Parole Board hearing is assumed to be £400 and a Parole Board oral hearing is assumed to be £1,950. This is based on a published cost in 2022/23 for a paper hearing of £385 and an oral hearing of £1,876<sup>10</sup> inflated to current (2023/24) prices. The

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<sup>9</sup> This is based on a marginal cost of an additional person on the probation licence caseload of c£4,500 (which compares to c£3,150 for an additional person on the probation court order caseload).

<sup>10</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1171892/Parole\\_Board\\_ARA\\_2022-23\\_-\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1171892/Parole_Board_ARA_2022-23_-_Final.pdf)



annual costs saved for the Parole Board (in 2023/24 prices) is therefore estimated to be between £0.9m and £1.5m for the Low and High scenarios respectively, with a best estimate of £1.3m.

### Non-Monetised Benefits

#### *Victims and the general public*

34. Holding the most serious prisoners in custody for longer will ensure victims and the wider public are protected for longer through the offenders' incarceration, and enable victims to feel safe for longer. These offenders will still be subject to stringent licence conditions and will be liable to be recalled to prison for the remainder of their sentence following release, though it is unknown whether a reduced licence period will have any impact on offender rehabilitation or likelihood to reoffend.
35. The economic and social cost of rape offences has been found to be the highest of all non-fatal offences and so there are significant economic and social benefits if this policy were to have a deterrent or aversion effect on rape and serious sexual offending through the prolonged custodial period.
36. Longer custodial sentences for dangerous offenders may also increase the victim's and the general public's confidence in the justice system. This may be a contributing factor in securing cooperation from victims or witnesses to crimes, such as in giving evidence or encouraging victims to come forward in the first place as they believe offenders will receive a fair and appropriate punishment for their crimes.

#### *Police service, HMPPS*

37. The SDS measure will mean that most offenders will have a shorter licence period. If there is any reduction in recalled offenders due to this, this could mean less work for the police service (for arrest and return to custody) and HMPPS staff involved in the administration of the recall process.

#### *Local authorities*

38. Local authorities who provide services to these offenders when released into the community may incur savings due to the reduced time these offenders will spend in the community. This primarily applies to accommodation services but will also be the case for any service provided by Local Authorities to offenders after release from custody.

### **Summary**

39. The total NPSV at the end of the 40 year appraisal period for these measures is estimated to be a cost of £2,416m for the Low scenario, £2,885m for the Best/Central scenario and £3,396m for the High scenario.
40. While the overall NPSV is a net cost, there are non-monetisable benefits to the policy, including ensuring victims and the wider public will be protected for longer, and increasing public confidence that the criminal justice system is fair.

## **E. Risks and Assumptions**

30. The key assumptions and risks underlying the above impacts are described below.

Assumptions	Risks / uncertainties
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For the purposes of this IA it has been assumed the measures will come into effect in Spring 2024 (April 2024).	These measures will only be commenced by regulation. While we have assumed Spring 2024 for the purposes of this IA, the actual implementation date is uncertain and may be later than assumed.
Future sentenced volumes are based on 2022 case volumes for the given offences, and then uplifted by the expected increase the Sexual Offences prison population.	<p>Future cases in scope of Option 1 are uncertain and subject to changes in reporting and charging behaviours. If there are significant changes to offences being committed or the Government's commitment is not met it could affect the number of future caseloads.</p> <p>The assumed scenarios of the future sexual offender population do not account for the potential impact of future system shocks or future policies.</p>
Average custodial sentence lengths (ACSL) of future cases are based on sentencing severity in 2022.	It is difficult to predict future changes in the types of offences being committed and how this will impact the sentence lengths imposed by sentencers.
Sentencing behaviour will remain the same after the introduction of these measures.	As the custodial period of affected offenders will be longer under the measures proposed in this IA it is possible that the total sentence length given could be changed so that the time spent in custody is the same as under the current sentencing framework. There may also be a change in the proportion of offenders receiving custodial sentence, however this risk is low due to the seriousness of the offences affected.
Plea behaviour in courts will remain the same	It is possible that the longer custodial sentences proposed in this IA could make offenders more likely to enter a guilty plea in order to try to reduce their overall time spent in custody.
It is assumed that the % of those recalled during the licence period will be unaffected by the change in the length of the period.	Whilst most recalls take place at the beginning of the licence period, there will be a smaller 'window of opportunity' in which offenders can breach their licence condition and be recalled to custody. If there is any reduction in recalled offenders due to this policy change then it will reduce expected prison place impacts.
It is assumed that current SDS offenders serving less than 4 years for the affected offences will serve 50% of their sentence in custody, and that those serving 4 year or over will serve two-thirds of their sentence in custody.	Actual percentage of sentence spent in custody will depend on other factors such as time spent on remand and additional days added.
It is assumed that 5/10/20% additional offenders will be affected by the policy in our Low/Central/High scenarios respectively, due to having one of the affected offences as a secondary offence.	The range is based on the number of offenders with an associated secondary offence based on a snapshot of the current prison population. This assumption may vary due to future changes in the offence mix of the prison population.
The running cost of an average prison place is approximately £51,700 per year. These are based on the prices published by HMPPS for 2021/22 inflated to represent the current price in 2023/24.	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.
Additional prison places will need to be constructed in order to meet any increased	This cost is an average based on the total amount of money which was allocated to the construction



<p>demand, for which the construction cost for each place is a minimum of £250,000.</p> <p>It is assumed that the construction of each place will take place in the year it is needed and the costs will fall over this same period.</p>	<p>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 isn't possible to allocate precise prison places and costs for each additional place at this point.</p>
<p>The benefit to the probation service is approximately £4,500 per place, and an EM saving of £3,300 in 2023/24 prices.</p>	<p>This benefit is based on the saving to the probation service of an offender serving less time on licence after being released from custody.</p> <p>It has been assumed that all affected offenders will have an EM requirement as part of their licence conditions. Benefits will decrease where this is not the case.</p>
<p>The benefit to the Parole Board is approximately £2,400 per paper and oral hearing. This is based on prices published by the Parole Board for 2022/23 inflated to represent the current price in 2023/24.</p>	<p>This benefit is based on a combination of the published cost of a paper hearing and the published cost of an oral hearing.</p>
<p>Current affected SOPC and EDS offenders will no longer go through Parole Board hearings for the opportunity to be released ahead of their 100% point. It is assumed that current offenders go through an average of 3 hearings prior to release.</p>	<p>This assumption is based on the average sentence length and average time between Parole Board hearings for affected offenders. Any deviation will impact upon Parole Board savings expected.</p>
<p>An optimism bias of 20% has been applied to all costs and benefits.</p>	<p>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.</p>

## F. Wider Impacts

### Equalities

30. We hold the view that none of the measures in this Impact Assessment are likely to be directly discriminatory within the meaning of the Equality Act 2010. Please see the separate overarching equalities impact assessment published alongside this IA for further details.

### Impact on small and micro businesses

49. There are not assumed to be any direct costs or benefits to business for these measures.

### Potential trade implications

50. There are not assumed to be any direct costs or benefits to business for any of the measures.

### Better Regulation

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

## **H. Monitoring and Evaluation**

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