

<b>Title:</b> Sentencing Bill - Whole Life Orders  <b>IA No:</b> MoJ065/2023 <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> Legislation			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
	<b>Contact for enquiries:</b> Lyndsey Lancaster Lyndsey.Lancaster@justice.gov.uk			
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> Not applicable	

Cost of Preferred (or more likely) Option			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£10.8m	N/A	N/A	N/A

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

Whole life orders (WLOs) are given when a crime is considered so serious that the offender should never be released from prison. Currently, a WLO is the starting point for certain categories of murder, set out in paragraph 2(2) of Schedule 21 to the Sentencing Act 2020. These include the murder of two or more persons involving sexual or sadistic conduct, the murder of a child involving a substantial degree of premeditation or planning, and a murder done for the purpose of advancing a political, religious or ideological cause.

The Government's manifesto included a commitment to make sentences tougher for the worst offenders. To meet this commitment, the Bill will create a new duty on the court to impose a WLO for all of the above categories of murder unless there are exceptional circumstances relating to the offence or the offender, which justify not imposing a WLO. The Bill will also add the murder of a single victim involving sexual or sadistic conduct to the categories of murder subject to the new duty to impose a WLO unless there are exceptional circumstances. Government intervention is required because primary legislation is needed to change the sentencing framework.

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

The primary policy objective is to protect the public by ensuring that the most dangerous offenders are not released from prison. The policy intention is also to recognise the severity of a murder of a single victim involving sexual or sadistic conduct by bringing such offences within scope of the new duty to impose a WLO.

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

- **Option 0: Do nothing.** Under this option the current legislation would continue.
- **Option 1: Legislate to:**

**Measure 1A:** Create a new duty to impose WLOs in circumstances which currently attract a WLO as the starting point, as set out in paragraph 2(2) of Schedule 21 to the Sentencing Act 2020, unless there are exceptional circumstances.

**Measure 1B:** Add murders of a single victim involving sexual or sadistic conduct to the list of those offences subject to the new duty to impose a WLO unless there are exceptional circumstances.

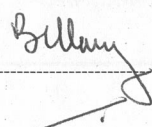
The Government's preferred option is Option 1.

**Will the policy be reviewed?** It will not be reviewed. **If applicable, set review date:** N/A

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

**I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.**

Signed by the responsible Minister:



Date:

14.11.23

## Summary: Analysis & Evidence

## Policy Option 1 Measures A & B

**Description:** Measure 1A: Create a new duty to impose a WLO in circumstances which currently attract a WLO as the starting point, as set out in paragraph 2(2) of Schedule 21 to the Sentencing Act 2020, unless there are exceptional circumstances. Measure 1B: Add murders of a single victim involving sexual or sadistic conduct to the new duty to impose WLOs unless there are exceptional circumstances.

### FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Period	Net Benefit (Present Value (PV)) (£m)		
2023/24	2024/25	70 yrs	Low: -£6.5m	High: -£13.8m	Best Estimate: -£10.8m

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£4.4m		£0.9m	£6.5m
High	£13.3m		£2.8m	£13.8m
Best Estimate	£9.0m		£1.9m	£10.8m

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

While it has not been possible to monetise the costs of Measure 1A, they are anticipated to be minimal. Under Measure 1B an estimated 15 to 46 addition prison places will be required in steady state, with an estimated transition cost of £4.4m to £13.3m to construct. Steady state is expected to be reached between 2074 and 2094, with impact beginning to be felt from around 2060. There will also be annual running costs of £0.9m to £2.8m for these places at steady state. For HMPPS this will result in an NPC of £6.5m to £13.8m.

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

Key non-monetised costs are:

- HMPPS-Prison Service: There is a risk that offenders spending their whole life in prison as a result of these measures may compound prison capacity and overcrowding pressures (if there is not enough prison capacity), and may potentially increase prison instability.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	N/A		N/A	N/A

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

It has not been possible to monetise any of the benefits for these measures.

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

There may be benefits for the Parole Board and National Probation Service as offenders now given a WLO will no longer be eligible for release. Due to the small number of cases these savings are expected to be minimal.

These measures are anticipated to increase public protection and confidence in the sentencing of the most dangerous offenders. The families of the victims may feel that justice has been better served by the use of a WLO.

Key assumptions/sensitivities/risks	Discount rate (%)
-------------------------------------	-------------------

3.5%

A key assumption is how much longer offenders will spend in prison. We are assuming that offenders currently serve, on average, 35 years. Those sentenced to a WLO will spend the rest of their life in prison, but how long that will be is highly uncertain. Due to uncertainty, to estimate the impact we estimate three scenarios where the time served goes up by 5, 10 and 15 years. All costs fall far in the future and are therefore difficult to estimate accurately.

### BUSINESS ASSESSMENT (Option 1 Measures A-B)

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



# Evidence Base

## A. Background

### Whole Life Orders

1. The sentencing framework for murder is contained in sections 321 and 322 of, and Schedule 21 to, the Sentencing Act 2020.<sup>1</sup> Schedule 21 sets out the principles which the court must have regard to when assessing the seriousness of all cases of murder to determine the appropriate minimum term to be imposed.
2. Schedule 21 contains a range of starting points for determination of the minimum term. Based on the circumstances of the offence, starting points are usually 15 years, 25 years or 30 years, but for cases of exceptionally high seriousness there is a whole life order (WLO) starting point. WLOs are given when an offence/(s) is considered so serious that the offender should never be released from prison.
3. WLOs are the starting point for cases of exceptionally high seriousness. The following circumstances are identified in Schedule 21, paragraph 2(2) as normally falling within this category.
  - a. the murder of two or more persons, where each murder involves any of the following (a) a substantial degree of premeditation or planning, (b) the abduction of the victim, or sexual or sadistic conduct,
  - b. the murder of a child if involving (a) the abduction of the child (b) sexual or sadistic motivation, or (c) a substantial degree of premeditation or planning
  - c. the murder of a police officer or prison officer in the course of his or her duty,
  - d. a murder done for the purpose of advancing a political, religious, racial or ideological cause, or
  - e. a murder by an offender previously convicted of murder.
4. A WLO can only be given to 18- to 20-year-olds in exceptional circumstances. Offenders who are under 18 when they commit murder, face a different sliding scale of starting points in Schedule 21, and cannot be given a WLO.
5. Given the exceptionally high seriousness of murders that receive a WLO, these sentences are rare, with fewer than five given in 2022.<sup>2</sup> Those given a WLO will spend the rest of their life in prison, unless there are exceptional compassionate grounds to warrant release. At end of June 2023, there were 65 prisoners serving a WLO.<sup>3</sup>

### Problem Under Consideration

6. The Government's manifesto included a commitment to make sentences tougher for the worst offenders. In particular, the Government believes the offences that fall within the starting range of a WLO are so severe that they warrant the creation of a new duty requiring the court to impose a WLO unless there are exceptional circumstances.
7. The Government also considers that the murder of a single victim involving sexual or sadistic conduct is of such seriousness that it should be included in the same category. Currently, only murders of multiple victims involving sexual or sadistic conduct or murder of a child involving sexual or sadistic motivation fall within the WLO category. This measure will make the murder of a single victim involving sexual or sadistic conduct subject to the new duty to impose a WLO.
8. This Impact Assessment (IA) explains the policy rationale and objectives for this option of WLO measures. It then provides an overview of the estimated effect of this option on society, including both the monetised and non-monetised impacts.

## B. Rationale and policy objectives

### Rationale

---

<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2020/17/schedule/21>

<sup>2</sup> Excluding one case where the WLO was quashed on appeal.

<sup>3</sup> [Offender Management statistics quarterly: January to March 2023 - GOV.UK \(www.gov.uk\)](#)

9. The conventional economic approaches to Government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way the markets operate or there are strong enough failures in existing Government interventions where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to certain groups in society).
10. In the case of the option outlined in this IA, the main rationale is one of equity. The measures outlined under Option 1 will reform the sentencing framework to ensure that those carrying out such offences receive the maximum punishment available and to provide greater public protection and increase public confidence.

### **Policy Objectives**

11. The primary policy objective is to protect the public by ensuring that the most dangerous offenders are not released from prison. The policy intention is also to recognise the severity of a murder of a single victim involving sexual or sadistic conduct by bringing such offences within scope of the new duty to impose a WLO. Those who commit such offences in the future will know that the expectation is that they will never be released from prison.

### **C. Affected Stakeholder groups, organisations and sectors**

12. A list of the main groups who would be affected by the measures described in this IA is shown below:
- HM Prison and Probation Service of England and Wales, and especially the Prison Service (HMPPS-Prison Service) and the National Probation Service (NPS)
  - Parole Board
  - Families of victims
  - Families of offenders sentenced to a WLO
  - The public

### **D. Description of options considered**

13. To meet the policy objectives, the following options are considered in this IA:
- **Option 0: Do nothing.** Under this option the current legislation would continue.
  - **Option 1: Legislate to:**
    - **Measure 1A:** Create a new duty to impose WLOs in circumstances which currently attract a WLO as the starting point, as set out in paragraph 2(2) of Schedule 21 to the Sentencing Act 2020, unless there are exceptional circumstances.
    - **Measure 1B:** Add murders of a single victim involving sexual or sadistic conduct to the list of those offences subject to the new duty to impose a WLO unless there are exceptional circumstances.

14. Option 1 is the preferred option as it meets the policy objectives set out above.

#### **Option 0**

15. Under this option, the current legislation concerning WLOs would continue to apply. This option has been rejected as it would not address the policy objectives.

#### **Option 1**

16. Both measures 1A and 1B are included within this option and are considered as a package in this IA.
17. Under Option 1, the Government will amend the threshold for issuing a WLO to increase public protection and confidence in the sentencing of the most dangerous offenders by:
- Creating a new duty to impose a WLOs in circumstances which currently attract a WLO as the starting point, as set out in paragraph 2(2) of Schedule 21 to the Sentencing Act 2020, unless there are exceptional circumstances.



- Adding murders of a single victim involving sexual or sadistic conduct to the list of those offences subject to the new duty to impose a WLO unless there are exceptional circumstances.

18. Primary legislation is required to amend section 321 and 322, and Schedule 21, of the Sentencing Act 2020. The changes will have some retrospective effect, because they will apply to offenders sentenced after the commencement of the legislation (and therefore apply to those who committed murder prior to commencement but have not yet been convicted and/or sentenced). We expect commencement by regulations and we do not expect to require any other secondary legislation.

## E. Cost and Benefit Analysis

19. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.<sup>4</sup>

20. 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. The costs and benefits of each option are usually compared to the 'do nothing' or 'counterfactual' option. As the counterfactual is compared to itself, its costs and benefits are zero, as is its Net Present Value (NPV).

21. IAs place a strong focus on the monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. 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.

22. All cost estimates in this IA have been assessed using HM Treasury guidance. To make sure our estimates for each measure are comparable, we have adopted the following conventions:

- Monetised costs and benefits are stated in current, that is 2023/24, prices.
- The Net Present Value (NPV) of each measure has been calculated for a 70-year period starting in 2024-25. A discount rate of 3.5 per cent has been applied; and then a 3 per cent discount rate for impacts beyond 30-years' time.
- Costs are rounded to the nearest hundred thousand.
- Where appropriate, 20% optimism bias has been applied to future costs.
- Unless otherwise stated, the annualised costs or savings are those which would be achieved in 'steady state' (i.e. when the measure is fully in operation).

23. A 70-year appraisal period has been used because the impacts of Option 1 – the costs of constructing and operating additional prison places - arise far into the future. It is very difficult to estimate such costs accurately over a 70-year timeframe. There may also be feasibility concerns in meeting the increased demand through new supply.

24. As is the case in all MoJ IAs, the direct impact on offenders of changes to the sentencing framework are not included as these reflect the seriousness of the offence and sentencing of the court. However, changes in sentencing may still have impacts on the families of offenders.

## Data sources

25. The following are the main sources of data and evidence used to inform this IA.

26. **Criminal Justice Statistics.**<sup>5</sup> Published sentencing statistics have been further broken down by the number of offenders convicted of murder<sup>6</sup> and a sexual offence (excluding offences that specify a child victim) at the same court appearance for each of the last five years (2018 to 2022, see Table 1). The figures in Table 1 below are previously unpublished statistics that have been produced for assessment of the policy and are therefore being published as part of the IA for the first time.

<sup>4</sup> The Green Book (2022) - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>5</sup> Criminal Justice System statistics quarterly: December 2022 - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>6</sup> Murder of persons aged 1 year or over, so excludes infanticide.

27. This further breakdown was needed to estimate the prevalence of cases per year that may be impacted by Option 1 measure B. Data on principal and non-principal offences are not routinely published as part of the quarterly or annual Criminal Justice Statistics.
28. Statistics on sentencing at the Crown Court are derived from Xhibit and Common Platform data. While every effort has been made to ensure that the figures presented below are accurate and complete, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. This is particularly important for non-principal offences, which have not been subject to the same level of validation as the principal offence datasets. Therefore, there are inevitable limitations around data collection processes, such as risks of inconsistent offence coding or erroneous data entry.
29. Data on the circumstances of these cases is not available in central databases and therefore figures may include cases that currently fall into the WLO category or may not meet the criteria to be affected by the measures in this IA. It also means that we have not been able to identify murder cases with sadistic conduct.

**Table 1: Number of offenders convicted for murder<sup>6</sup> and a sexual offence<sup>7</sup> at the same time, 2018 to 2022**

Year	Count
2018	4
2019	3
2020	5
2021	3
2022	5
Average per year	4

30. **Published sentencing remarks for murder cases sentenced in 2022.** At the discretion of the sentencing judge, the sentencing remarks for high-profile cases may be published on the judiciary.uk website.<sup>8</sup> Published remarks may not capture all murder cases that would be relevant under Option 1 but given the high-seriousness of murders meeting a 30-year or WLO starting point, it is expected that most, if not all, relevant cases would be published.
31. It should be noted that sentencing remarks are, by their nature, a summary of how the sentence was reached and not a full representation of the case. For the purposes of this IA, they have been used to inform assumptions on average tariff lengths for cases currently meeting the 30-year starting point.

**Option 1 Measure 1A: Create a new duty to impose WLOs in circumstances which currently attract a WLO as the starting point, as set out in paragraph 2(2) of Schedule 21 to the Sentencing Act 2020, unless there are exceptional circumstances.**

**Option 1 Measure 1B: Add murders of a single victim involving sexual or sadistic conduct to the list of those offences subject to the new duty to impose a WLO unless there are exceptional circumstances.**

### **Costs of Option 1**

32. Under Option 1, relevant offenders that currently receive a mandatory life sentence with a minimum term will no longer be eligible for release (except in exceptional circumstances). Therefore, Option 1 is only expected to impact on HMPPS – Prisons due to increased time spent in prison.

### **Monetised costs**

<sup>7</sup> Excluding sexual offences that specify a child victim.

<sup>8</sup> [Judgments Archive - Courts and Tribunals Judiciary](#)



33. MoJ do not routinely hold data on sentencing starting points. It is considered, however, that murder cases that attract a WLO starting point but do not receive one under current legislation are extremely rare. The impact of Measure 1A on HMPPS – Prisons is therefore anticipated to be minimal.
34. Measure 1B is expected to increase time spent in prison for most relevant murder cases and is therefore expected to have prison place impacts for the adult estate. The average number per year of offenders convicted for murder and a sexual offence<sup>9</sup> at the same time (2018-2022) has been used as a proxy for the number of relevant murder cases each year – four (see Table 1).
35. Based on published sentencing remarks and internal MI, it was assumed that currently offenders impacted by Measure 1B spend an average 35 years in prison (see Table 3 in the next section of the IA). To assess the impacts of Measure 1B, low, best and high estimates of the costs have been produced based on an assumption of 5, 10 and 15 additional years spent in prison due to being sentenced to a WLO rather than a life sentence with a minimum term. This is to reflect the uncertainty in how long offenders may spend in prison as this will be affected by a range of factors including age at sentence, general health etc. Given the already lengthy time in prison this cohort serves, it is assumed that a proportion of these offenders will not spend more than the currently assumed 35 years in prison. Based on internal MI, it was assumed that impacts would apply for around 3 out of 4 offenders. See Table 3 for the assumptions used in making these impact estimates.
36. Based on the assumptions set out in Table 3, at 'steady state' Measure 1B is estimated to require between 15 to 46 additional prison places by between 2074 to 2094, with a best estimate of 31 additional prison places. It has been assumed that the costs for these additional places will fall 18 months prior to being required. There may also be some negligible additional costs beyond this for any offenders that spend an exceptionally long time in prison.
37. Based on the assumptions set out in Table 3. The transition costs to construct these additional prison places are estimated to cost £4.4m to £13.3m, with an ongoing annual running cost of £0.9m to £2.8m for these places once all are in use. Due to the existing tariff lengths given for murder, the impact from Measure 1B is not expected to start to be felt until around 2060, with the steady state not being reached until around 2074 to 2094.
38. The monetizable costs of Measure 1B are summarised in Table 2 below. It shows the 70-year NPV of Measure B is expected to range from -£6.5m to -£13.8m with a best estimate of -£10.8m.

**Table 2: Summary of transition and annual monetised costs and 70-year NPV for Measure 1B.**

Estimate	Transition cost (real price)	Annual cost (real price)	70-year NPV
Low	£4.4m	£0.9m	-£6.5m
Best	£9.0m	£1.9m	-£10.8m
High	£13.3m	£2.8m	-£13.8m

### Non-monetised costs

39. Cross-cutting non-monetised costs are:

- **HMPPS-Prison Service:** There is a risk that offenders spending their whole life in prison as a result of these measures may compound prison capacity and overcrowding pressures (if there is not enough prison capacity), and may potentially increase prison instability, self-harm and violence.
- **Families of offenders:** It is possible that changes in sentencing may have impacts on the offender or on their families and other dependents.

### **Benefits of Option 1**

#### Monetised benefits

40. It has not been possible to quantify any of the benefits expected for Option 1, measures A or B.

<sup>9</sup> Excluding sexual offences that specify a child victim.

## Non-monetised benefits

### National Probation Service, Parole Board

41. Option 1 may have benefits for the Parole Board where offenders are given a WLO rather than a life sentence with a minimum term and therefore are not eligible for Parole Board release. Due to the small number of estimated cases each year, these savings are expected to be minimal.
42. Likewise, there may be some saving for the NPS who will no longer have to supervise these offenders on release. Again, any savings are anticipated to be minimal and disproportionate to cost.

### The Public, Families of Victims

43. Option 1 is expected to provide greater public protection and increase public confidence in the sentencing of these offences. It is also expected to provide assurance to the families of victims that those responsible for such crimes will receive the maximum punishment available.

## F. Risks and assumptions

44. The above impacts have been estimated on the basis of a number of assumptions. As each assumption is associated with some degree of uncertainty, there are risks associated with each estimate. Table 3 below sets out the main assumptions and the associated risks and uncertainties.

**Table 3: Main assumptions, risk and uncertainties for costs and benefits for Option 1**

	Main assumptions	Risks/uncertainties
<b>Measure 1A</b>		
Prevalence	It is assumed that murder cases that attract a WLO starting point but do not receive one under current legislation are extremely rare. If this is so, the impact of Measure 1A will be minimal.	Sentencing is a matter for the independent judiciary based on all the circumstances of a case. Measure 1A will create a new duty on the court to impose a WLO unless there are exceptional circumstances. We have not been able to predict how this may be applied to future cases.
<b>Measure 1B</b>		
Implementation date	The legislation will come into effect in 2024/25 and Measure 1B will apply to offences sentenced after the implementation date, including to offenders who have been convicted before commencement of the Bill but are sentenced after commencement.	Any delay to the implementation of Measure 1B will delay the impacts by an equal amount of time.
Prison estate place costs	<p>Additional adult prison places will need to be constructed to meet any additional prison demand. It is assumed that the construction cost of each adult prison place will occur 18 months before it is needed.</p> <p>The construction cost of an additional prison place is £290,000. This is an indicative cost based on the publicly announced funding of £2.5bn for 10k prison places in 2019<sup>10</sup> with inflation applied, although</p>	<p>Adult prison place construction cost is an average based on the total amount of money allocated to the construction of 10,000 additional prison places over a 10-year period and inflated to 2023/24 prices.</p> <p>The exact construction profile will vary depending on when additional prison capacity is needed. This depends on a</p>

<sup>10</sup> 10,000 extra prison places to keep the public safe - GOV.UK ([www.gov.uk](http://www.gov.uk))



	<p>given the scale of the expansion and current high levels of inflation this is likely to be a low estimate.</p> <p>The average running cost of a prison place is £51,000 per year (2023/24 prices), based on the published figure of £46,696<sup>11</sup> (2021/22 prices) and we have assumed that prison running costs will continue to rise in line with inflation.</p> <p>Optimism bias of 20% has been applied to future prison running costs.</p> <p>The net present value has been calculated by applying a 3.5% discount rate for each future year and 3% for impacts after 30 years. The gross domestic product (GDP) deflator has been used.</p>	<p>range of factors, primarily natural changes in the prison population and future policy changes that increase or decrease the prison population. Because of this, it is not possible to allocate precise prison places and costs for each additional place at this point.</p> <p>Prison estate 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.</p>
Prevalence of sexual or sadistic behaviour in murder cases with an adult victim	<p>The average number of cases affected per year is assumed to be 4, based on 2018-2022 data on the number of offenders convicted of murder and a sexual offence (excluding those that specify a child victim) at the same time (see Table 1 above).</p> <p>For this IA, we have assumed the prevalence of these factors in each scenario will remain constant in future years.</p> <p>It was assumed that offenders convicted of murder and a sexual offence against a child at the same time would already receive a WLO as these cases would fall under the category of murder of a child with a sexual motivation.</p>	<p>Given the limitations of this data (see paragraphs 26 to 29), these assumptions are uncertain.</p> <p>It is difficult to predict future changes in the types of offences being committed and prevalence of certain characteristics. If there are significant changes in offences being committed, this will affect the estimates in this IA.</p> <p>As there is a distinction between murder with a sexual motivation and murder with sexual conduct, there may be the occasional murder case with a child victim that will be impacted by Measure 1B but has not been captured in these estimates.</p> <p>Sensitivity analysis has been used to show how impacts may vary if the number of cases affected each year does.</p>
Impact on time in prison	<u>Current sentencing practice</u>	Given the limitations of data on starting points (see paragraphs 30 to 31),

<sup>11</sup> [Costs per prison place and costs per prisoner 2021 to 2022 summary \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/costs-per-prison-place-and-costs-per-prisoner-2021-to-2022-summary.pdf)

	<p>It was assumed that relevant cases affected by Measure 1B would currently have a starting point of 30-years.</p> <p>The tariff set at sentence is the minimum time that must be spent in prison prior to the offender becoming eligible for consideration for release by the Parole Board. Based on tariff lengths in published sentencing remarks for murder cases sentenced in 2022 that had a 30-year starting point and an assumption on additional time spent in prison post-tariff, it was assumed that currently, on average, this cohort would spend 35 years in prison.</p> <p><u>Additional time in prison on a WLO</u></p> <p>It is assumed that following implementation of Measure 1B, all relevant cases will receive a WLO.</p> <p>It is highly uncertain how much longer this cohort will spend in prison due to receiving a WLO rather than a minimum term life sentence. For this reason, a low, best and high estimate have been estimated to illustrate this uncertainty and provide an estimated range for impacts.</p> <p>Given the already lengthy time in prison this cohort serves, it is assumed that a proportion of these offenders will not spend more than the currently assumed 35 years in prison. For each of the estimates below, the estimated additional time spent in prison is applied to 3 out of 4 offenders in this cohort. This is based on uncertain internal MI on offenders sentenced to a WLO.</p> <p><b>Low estimate:</b> on average, those now sentenced to a WLO under this measure will spend an additional 5 years in prison.</p> <p><b>Best estimate:</b> on average, those now sentenced to a WLO will spend an additional 10 years in prison.</p> <p><b>High estimate:</b> on average, those now sentenced to a WLO under this measure will spend an additional 15 years in prison.</p>	<p>assumptions on current time spent in prison are uncertain. Release (if granted) is a matter for the Parole Board. As such, the time spent in prison post-tariff is highly uncertain and some prisoners may not be released even where a minimum term has been served.</p> <p>Sentencing is a matter for the independent judiciary based on all the circumstances of a case. Measure A creates a new duty to impose a WLO unless there are exceptional circumstances. We have not been able to predict how this may be applied to future cases.</p> <p>Those sentenced to a WLO are expected to spend the rest of their life in prison. The length of time is highly uncertain and will be affected by a range of factors such as age at sentence, life expectancy and general health. Internal MI on this is extremely limited due to the small size of the WLO cohort and even smaller number who have passed away.</p> <p>These estimates are scenarios and so are subject to some uncertainty.</p>
Wider Criminal Justice System impacts	<p>There may be some benefits to the Parole Board and National Probation Service for cases that are no longer eligible for Parole Board release under these measures. Given the small number of estimated cases involved, benefits are anticipated to be minimal, and it has not been considered proportionate to try cost these.</p>	<p>Any impacts that differ from these assumptions may affect estimates modelled.</p>



## **Sensitivity analysis**

45. In addition to a low, best and high estimate in the main analysis, further sensitivity analysis was used to illustrate how impact estimates for Measure 1B may vary if the prevalence of murder cases affected varied from that assumed (four per year), given the caveats to data on prevalence (see Table 3 above).
46. To show potential impact should the prevalence of cases affected be higher than assumed, we modelled the impact for 8 cases per year – double the prevalence assumed.
47. For 8 cases, the 70-year NPC for the best estimate is estimated to be £21.7m for HMPPS – Prisons, with 62 additional prison places required in steady-state. This is an additional £10.9m and 31 additional prison places compared with the best estimate in the main analysis.

## **G. Wider impacts**

### **Equalities**

48. 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 as they apply equally to all offenders being sentenced. Please see the separate 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 proposals are not considered to be qualifying regulatory provisions and are out of scope of the Small Business Enterprise and Employment Act 2015.

## **H. Monitoring and Evaluation**

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

