

# **Sentencing Bill Factsheet: Home Detention Curfew (HDC)**

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**Headline: The Sentencing Bill (the Bill) will amend the law in relation to HDC to:**

- Extend HDC eligibility to risk-assessed offenders serving standard determinate sentences of over four years.
- Replace the lifetime ban on accessing HDC for prisoners who have been recalled to prison for breach of the HDC curfew conditions, with one that applies where the recall to custody occurred within two years of the date when the current sentence was imposed.
- Repeal the ban on access to HDC by prisoners who have ever been returned to custody by the courts for committing an offence during the now repealed “at risk” part of their licence period. An “at risk” return was where the courts could order a return to prison for some or all of the at risk period if the prisoner committed a further imprisonable offence between release from custody and the end of their sentence.

## **1 What are we going to do?**

- The Home Detention Curfew Scheme (HDC) enables eligible, risk-assessed offenders to be released from prison 6 months before their conditional release date to strict licence conditions and a curfew enforced by an electronic monitor, in order to have a transition period after leaving custody and beginning supervision in the community. During this transition period, they are subject to restrictions that limit their movements and activity but can begin reintegrating into the community sooner.
- Offenders must be subject to an electronically monitored curfew at their home address. They may also be subject to electronic monitoring of their location beyond the home address where this is considered necessary, and fitted with alcohol monitoring tags if this is something that played a role in their offending history.
- Certain offenders are statutorily excluded from HDC, including registered sex offenders and terrorist offenders while others are, as a matter of policy, presumed to be unsuitable for the scheme in the absence of exceptional circumstances. Offenders presumed to be unsuitable for release on HDC include those serving a sentence for cruelty to children and homicide and certain offences often related to Domestic Abuse. The current list is set out in the HDC Policy Framework (Home Detention Curfew Guidance, MOJ, 28 March 2019, <https://www.gov.uk/government/publications/home-detention-curfew>)
- We are extending the benefits of the HDC scheme to suitable offenders who are excluded solely due to sentence length or old curfew breaches rather than any assessment of risk. This gives offenders the opportunity to transition to life in the community, to tackle the negative behaviours that lead to offending and gives them more opportunities to get back into work and turn their lives around.
- We are not extending the type of offender eligible for HDC, and we will maintain the recently strengthened eligibility criteria, risk assessment, monitoring, and enforcement regime set out in the Policy Framework. All offenders who are released from prison on HDC will be thoroughly risk assessed, including mandatory safeguarding checks with police and children’s services, and the probation service must be confident that they can manage their risk in the community before they can be released on HDC.

- At the same time, we are amending the legislation so that offenders who have been recalled in the past two years on HDC cannot access the scheme. This will replace the current lifetime ban which has become increasingly disproportionate given how long the HDC scheme has been running.

## **2 How are we going to do it?**

- Under provisions in the Criminal Justice Act 2003 (“CJA 2003”), prisoners serving what is operationally termed as “standard determinate sentences” are automatically released from custody at the halfway point of their sentence (the requisite custodial period) and serve the remainder of their sentence on licence in the community. The Home Detention Curfew Scheme, which became available in 1999 following the passage of the Crime and Disorder Act 1998, enables certain offenders to be released ahead of this halfway point. Section 246 of the CJA 2003 gives the Secretary of State a discretionary power to release offenders on licence before they have served the requisite custodial period where certain statutory eligibility requirements are met and are subject to an electronically monitored curfew. This is operationally referred to as the Home Detention Curfew (HDC) Scheme. An offender released under section 246 of the CJA 2003 on HDC is subject to risk assessments.
- Provisions have been included in the Sentencing Bill which was introduced on 14 November, to amend this section of the CJA 2003 and to extend HDC eligibility to offenders serving sentences of over four years. This will only apply to offenders serving Standard Determinate Sentences of four years or over which have a 50% automatic release point. The same offence and sentence type exclusions that currently restrict HDC eligibility for under 4-year sentences will apply. Some offence exclusions are included in statute for example sexual offences requiring registration; and any sentences subject to Parole Board release or automatic release at the two thirds, rather than the halfway point. Other offenders are presumed unsuitable for HDC and these exclusions are set out in the policy framework and those offenders are only eligible for HDC if there are exceptional circumstances. Both the statutory exclusions and the presumed unsuitable list will remain the same for offenders serving sentences over four years.
- The lifetime ban on offenders who have breached HDC curfew conditions will be removed and replaced by a ban for offenders who have not complied with the HDC curfew conditions and subsequently been recalled to custody where the recall occurred less than two years before the date when the current sentence was imposed. The scheme has been running since 1999, so it is increasingly disproportionate to ban offenders who had a curfew breach throughout the lifetime of a long-running scheme.

## **3 Frequently asked questions**

### **Are you reducing people’s sentences?**

- No. Those who are eligible and assessed as suitable for release on HDC do not have their sentences reduced. Even though they are not in prison during the HDC period, they continue to serve their sentence in the community subject to strict licence conditions and an electronically monitored curfew. Failure to comply with the licence conditions or the HDC curfew requirements, or tampering with the monitoring equipment, can result in the offender being recalled to prison until their automatic release date is reached.

### **What evidence do you have that electronic monitoring works?**

- Electronic Monitoring is an effective criminal justice tool helping probation and police reduce crime, bringing rigour and accountability to supervision, whilst also helping to keep the public safe.
- Electronic monitoring provides clear proof of whether an individual is complying with the restrictions imposed; certainty of detection may act as a deterrent to further offending and an incentive to comply.
- We are investing in building the evidence base for the most effective use of electronic monitoring through our innovative expansion projects targeting acquisitive offenders and domestic abuse

perpetrators. These are underpinned by robust evaluations which will consolidate our understanding for the effective use of our devices.