

Equalities Statement

Introduction

The document records the analysis of measures being introduced by the Ministry of Justice (MoJ) in the design and development of the Sentencing Bill to fulfil the requirement placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. This Equalities Impact Assessment (EIA) is split into five sections:

1. Sentencing
2. Remand
3. Standard determinate sentences (SDS) progression
4. Probation: community measures
5. Foreign Nationals

Equality Duties

- This statement considers the impact of new legislation and associated operational changes against the statutory obligations under section 149 of the Equality Act 2010 places a duty on Ministers and the Department, when exercising their functions, to have ‘due regard’ to the need to:
 - a. Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
 - b. Advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
 - c. Foster good relations between different groups (those who share a relevant protected characteristic and those who do not).
- In line with our responsibilities under the Equality Act, the Department has considered the “protected characteristics” – namely race, sex, disability, sexual orientation, religion and belief, age, gender reassignment, pregnancy, and maternity. The protected characteristic of marriage and civil partnership is relevant only when considering the first limb of the duty.

- Firstly, on the protected characteristic of age. Youth sentencing has been excluded from some of the Sentencing Bill's major reforms. The Independent Sentencing Review explicitly excluded youth sentencing because the youth framework is separate to the adult system with entirely different guiding principles and the youth custodial system is not suffering from the same capacity pressures. Separate consideration will be given to what reforms are relevant and appropriate for the youth sentencing framework.
- The Department's assessment is that, bar the issue above in relation to age, all of the proposals are neither directly nor indirectly discriminatory within the meaning of the Equality Act 2010. They apply in the same way to all individuals and do not treat people less favourably because of their protected characteristics. Where they potentially put those with a protected characteristic at a particular disadvantage compared to those without, this is considered to be a proportionate means of achieving a legitimate aim. The Department's full analysis is set out below.
- We recognise that there is the potential for indirect discrimination for some measures (see below) but consider that the mitigations in place will help ensure that the risk of indirect discrimination is minimised.

Welsh Language Impact

- We have assessed the linguistic consequences of these measures affecting services provided to the people in Wales. The Department does not consider that any of the measures would have any significant or negative impact on the achievement of this objective.
- The Department has considered the likely Welsh Language impacts on prisoners in Welsh prisons and has concluded that none of the measures are likely to have a negative impact. This is because there are already systems and processes in place to support Welsh offenders by promoting and facilitating the use of Welsh.

1. Sentencing

Presumption to suspend short custodial sentences

Policy summary

- The Government is introducing a presumption to suspend short custodial sentences of 12 months or less. This gives effect to a recommendation of the Independent Sentencing Review that the Government should legislate to ensure that short custodial sentences are used only in exceptional circumstances.
- While short custodial sentences will be needed in some circumstances, they often do not provide meaningful rehabilitation to offenders, have limited deterrent effect, and have high financial costs. Suspended sentence orders and community orders can more effectively reduce reoffending when compared to short custodial sentences.
- However, judges will always need recourse to short custodial sentences in some instances and prison sentences – even if short – can be critical to safeguarding victims of domestic abuse or violence against women and girls (VAWG).
- Therefore, the courts will retain discretion to impose a short immediate custodial sentence for offenders who have breached a court order, where there is a significant risk of harm to an individual (whether physical or psychological), or where there are exceptional circumstances that do not justify passing a suspended sentence.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure is not directly discriminatory within the meaning of the Equality Act 2010. The presumption to suspend short custodial sentences does not treat people less favourably because of their protected characteristics and applies in the same way to all individuals who are in scope, regardless of their protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- Our assessment is that receiving a suspended sentence order in place of a short custodial sentence of up to 12 months does not cause particular disadvantage to any person due to their protected characteristics, subject to the underrepresentation of certain protected characteristics set out below.
- If it could be shown that people with a certain protected characteristic were put at a particular disadvantage, we believe it is a proportionate means of achieving our legitimate aim to reduce the number of short custodial sentences.

Data on affected groups – offenders

- The proposed change will have a direct impact on offenders who are serving custodial sentences of 12 months or less by changing the sentencing framework to increase use of suspended sentence orders for this cohort. The result of these changes is likely to mean a greater number of offenders will be diverted away from custody.
- Published data that would inform whether individuals among the affected group with certain protected characteristics will be disproportionately affected is limited. The latest Ministry of Justice's *Criminal Justice System statistics quarterly*¹ provides sentencing data for 2024 according to some characteristics: sex, ethnicity and age.
- This data (see Annex B) suggests that some characteristics may be underrepresented in the population affected by this policy (those currently sentenced to immediate custody of 12 months or less) relative to all those sentenced to immediate custody and the general adult population.
- **Offenders from an ethnic minority background appear to be underrepresented:**
 - In 2024, where ethnicity was known, 17% of those given an immediate custodial sentence (of any length) and 14% of those given a short custodial sentence (12 months or less) belonged to an ethnic minority group.

¹ MOJ (2025), Outcomes by Offence Tool, [Criminal Justice System statistics quarterly: December 2024 - GOV.UK](#) Children, companies and those of unknown age are excluded from figures.

- Around two thirds (67%) of immediate custodial sentences given to white offenders in 2024 were short custodial sentences. However, this proportion was lower for other ethnic groups and lowest amongst those from an Asian and Black background, accounting for 51% and 52% respectively of immediate custodial sentences given.
- Whilst theft and violence against the person were the most common offence groups amongst those sentenced to short sentences in 2024 for each ethnicity group, theft was more prevalent amongst white offenders accounting for 35% of short sentences given compared to 23% of short sentences given to those from an ethnic minority group.
- **Female offenders appear to be underrepresented:**
 - In 2024, female offenders accounted for 7% of all immediate custodial sentences and 9% of short immediate custodial sentences whilst accounting for 52% of adults in the general population.
 - Whilst underrepresented amongst those sentenced to immediate custody, a higher proportion of female offenders sentenced to immediate custody receive short custodial sentences: 77% of custodial sentences given to female offenders in 2024 were short (12 months or less) compared to 61% of those given to male offenders.
 - Whilst theft and violence against the person were the most common offence groups amongst those sentenced to short sentences in 2024 for both female and male offenders, theft was more prevalent amongst female offenders accounting for 49% of short sentences given compared to 31% of short sentences given to male offenders.
 - Theft from shops alone accounted for 42% of short sentences given to female offenders in 2024; 20% of those given to male offenders.
- **Offenders aged 50 and over appear to be underrepresented:**
 - Whilst accounting for almost half the general adult population, those aged 50 and over accounted for only 11% of those sentenced to immediate custody and 10% of those sentenced to short custodial sentences in 2024. In contrast, age groups between 21 and 49 were over-represented amongst immediate and short immediate custodial sentences compared to the general adult population.
 - In 2024, short sentences accounted for more than two thirds of custodial sentences given to the 40 to 49 (69%) age group and two thirds (66%) of those given to the 30 to 39 age group. This proportion was lower for

other age groups and lowest for the 60 and over and 18 to 20 age groups (45% and 49% respectively).

- Theft offences are particularly prevalent amongst short immediate custodial sentences and was most prevalent amongst offenders aged 30 to 49 accounting for 37% of short sentences given to this cohort in 2024 compared to 25% of short sentences given to adults outside this age group.
 - By virtue of the underrepresentation of the groups noted above, we acknowledge that any impacts arising from replacing immediate custodial sentences of 12 months or less with suspended sentence orders will affect those groups of prisoners listed above less so relative to the current population receiving custodial sentences and/or the general adult population
- **Offenders under the age of 18**
 - This measure will not apply to offenders under the age of 18. This is because, unlike adults, it is not possible for children to be sentenced to a Suspended Sentence Order so this measure would be incompatible with the youth sentencing framework. The policy for children subject to shorter custodial sentences is being considered separately.

Discrimination arising from disability and duty to make reasonable adjustments

- In terms of offenders who are disabled, we believe that the policy is proportionate, having regard to its aim. Not all offenders who are disabled will be in scope of the proposal, because not all offenders are eligible to receive a suspended short sentence instead of a short custodial sentence. It would not be reasonable to make all disabled offenders eligible to receive a suspended sentence. It remains important to make reasonable adjustments and ensure appropriate support is given to all disabled offenders, regardless of their sentence.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of affected offenders where those needs are different from the needs of those who do not share that protected characteristic.
- The presumption to suspend short sentences will mean that some offenders who would have otherwise received a sentence of immediate custody will now

spend less or no time in custody. This will increase their ability to interact with rehabilitative services aiding a reduction in reoffending.

- A positive impact on communities will be an improved perception of public safety by reducing reoffending through use of community-based sentences rather than disruptive short sentences of immediate custody.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

Extending the availability of suspended sentence orders

Policy summary

- This policy will give the judiciary greater flexibility to suspend custodial sentences where appropriate by allowing custodial sentences of up to 3 years to be suspended (currently the maximum length of sentence which can be suspended is 2 years). For custodial sentences of between 2 to 3 years, the court will be able to set an operational period (which is the length of the suspension period) of up to 3 years. This policy does not amend the existing maximum of 2 years for the supervision period (the period during which the offender is supervised by probation).
- This policy will not require the judiciary to suspend more sentences, it will only extend their existing powers.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure is not directly discriminatory within the meaning of the Equality Act 2010. They do not treat people less favourably because of their protected characteristics and they apply in the same way to all individuals who are in scope, regardless of their protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.

Data on affected groups – offenders

- The proposed change will have a direct impact on offenders who are serving custodial sentences of 2-3-years by changing the sentencing framework to include use of suspended sentence orders as an option for this cohort. The result of these changes is likely to mean a greater number of offenders will be diverted away from custody.
- Published data that would inform whether individuals among the affected group with certain protected characteristics will be disproportionately affected is limited. The latest Ministry of Justice's *Criminal Justice System statistics*

*quarterly*² provides sentencing data for 2024 according to some characteristics: sex, ethnicity and age.

- This data (see Annex B) suggests that some characteristics may be underrepresented in the population affected by this policy (those currently sentenced to immediate custody of 2-3-years) relative to all those sentenced to immediate custody and the general adult population. Specifically:
- **Offenders from a white background appear to be slightly underrepresented:**
 - In 2024, where ethnicity was known, 83% of those given an immediate custodial sentence (of any length) and 79% of those given a 2-3-year custodial sentence belonged to a white ethnic group. In the general adult population, 83% are from a white background.
 - Drug offences accounted for a higher proportion of 2-3-year immediate custodial sentences given to adults from a minority ethnic background than white adults, for example accounting for over half (55%) of 2-3-year custodial sentences given to black adults and 26% of those given to white adults.
- **Female offenders appear to be underrepresented:**
 - In 2024, female offenders accounted for 7% of immediate custodial sentences and 5% of 2-3-year custodial sentences whilst accounting for 52% of adults in the general population.
 - Drug offences accounted for the greatest proportion of 2-3-year custodial sentences given to each sex but was slightly lower for female offenders (27% compared with 34% for male offenders).
- **Offenders aged 50 and over appear to be underrepresented:**
 - Whilst accounting for almost half of the general adult population, those aged 50 and over accounted for only 11% of those sentenced to immediate custody and 11% of those sentenced to 2-3-year custodial sentences. In contrast, age groups between 18 and 39 are over-represented amongst 2-3-year immediate custodial sentences compared to the general adult population.

² MOJ (2025), Outcomes by Offence Tool, [Criminal Justice System statistics quarterly: December 2024 - GOV.UK](#) Children, companies and those of unknown age are excluded from figures.

- Young adults (18 to 24) accounted for a higher proportion of 2-3-year custodial sentences than for all custodial sentences in 2024.
- Drug offences accounted for a higher proportion of 2-3-year immediate custodial sentences given to young adults (18 to 24) than other age groups. For those aged 50+, sexual offences was the offence group than accounted for the greatest proportion of 2-3-year custodial sentences.
- As the data indicates, white, female and older offenders are underrepresented in the cohort which could be affected by this policy. The policy may therefore benefit non-white, male and younger offenders to a greater degree. However, we believe that this policy is a proportionate means of achieving our legitimate aim to provide the courts with greater flexibility to suspend custodial sentences where appropriate, while ensuring that those who commit the most serious offences necessitating longer sentences, will still go to prison.

Discrimination arising from disability and duty to make reasonable adjustments

- In terms of offenders who are disabled, we believe that the policy is proportionate, having regard to its aim.
- Not all offenders who are disabled will be in scope of the proposal, because the proposals do not apply to all offenders. It remains important to make reasonable adjustments and ensure appropriate support is given to all disabled offenders, regardless of their sentence.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of affected offenders where those needs are different from the needs of those who do not share that protected characteristic.
- This measure will mean that some offenders who would have otherwise received a sentence of immediate custody will now serve their sentences in the community. This will increase their ability to interact with rehabilitative services aiding a reduction in reoffending.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

Preventing EDS and SOPC from being Suspended

Policy Summary

- This measure prevents extended determinate sentences (EDS) and sentences for offenders of particular concern (SOPCs) from being suspended. The aim of the measure is to put beyond doubt that it is not appropriate to suspend these sentences.

Equality Considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure is not directly discriminatory within the meaning of the Equality Act 2010 as the measure does not treat people unfavourably on account of their protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those sharing a protected characteristic at a particular disadvantage compared to those who do not.
- Data is not available on how many of these sentences are currently suspended but we expect the number to be zero or negligible. We therefore do not consider that this measure will result in a practical change in how offenders are sentenced and it is therefore not indirectly discriminatory. This measure is designed to put beyond any doubt that suspended sentences should not be used for those serious offenders who receive SOPC and EDS sentences.

Discrimination arising from disability and duty to make reasonable adjustments

- In so far as this policy/legislation extends to prisoners with disability who will be affected by the changes to sentencing, we will continue to provide reasonable adjustments as appropriate.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of affected offenders where those needs are different from the needs of those who do not share that protected characteristic.

- We consider that ensuring serious offenders are in custody rather than having the potential to serve their sentence in the community will support victims of those offenders.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

Community Requirements

Policy Summary

- These measures add to the list of requirements the court can impose as part of a community or suspended sentence order and further allows this list to be added to or amended via secondary legislation.
- The new requirements will:
 - Prohibit offenders from driving,
 - Prohibit offenders from attending sports and other public events,
 - Prohibit offenders from attending drinking establishments, this includes pubs, bars and clubs
 - Require an offender to stay within a specified geographic location (restriction zones)

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of affected offenders where those needs are different from the needs of those who do not share that protected characteristic.
- As set out above it will be a matter for the court to determine whether these requirements are appropriate in an individual case, taking into account all the information about the offence and the offender.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

Income Reduction Orders (IROs)

Policy summary

- An IRO is a new ancillary order that courts will be able to apply at sentence to offenders who are subject to suspended sentences (meaning they will serve their custodial sentence in the community) and are either likely to or will continue to generate an income above a set threshold.
- Being subject to an IRO while serving a suspended sentence will require an offender to pay a percentage of their total taxable income above a threshold for up to the duration of the suspended sentence order. This measure is important to support ensuring that sentences served in the community are sufficiently punitive. This measure is in-line with ISR recommendations about tougher use of financial penalties.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure is not directly discriminatory within the meaning of the Equality Act 2010. Applying a financial penalty for committing a crime does not treat people less favourably because of their protected characteristics and applies in the same way to all individuals who are in scope, regardless of their protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- Our assessment is that levying a financial penalty for committing a crime should not cause disadvantage to any person due to their protected characteristics.
- We plan to work with Government partners to build a clearer picture of incomes and will consider equalities data as part of this.
- If it could be shown that people with a certain protected characteristic were put at a particular disadvantage, we believe it is a proportionate means of achieving our legitimate aim to give the courts more penalties to apply to offenders who spend no or significantly less time in custody.

Discrimination arising from disability and duty to make reasonable adjustments

- As is currently the case, it will continue to be a matter for the court to determine whether a particular requirement is appropriate in an individual case, taking into account all the information relating to the offence and the offender.
- In addition, we will consider the impact on offenders with disabilities and as we work with Government partners ahead of implementation.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of affected offenders where those needs are different from the needs of those who do not share that protected characteristic.
- As set out above it will be a matter for the court to determine whether these requirements are appropriate in an individual case, taking into account all the information about the offence and the offender.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

Purposes of sentencing

Policy summary

- This measure amends the statutory purposes of sentencing to make explicit reference to victim protection alongside public protection.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure is not directly discriminatory within the meaning of the Equality Act 2010 as the measure to amend sentencing does not treat people unfavourably on account of their protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those sharing a protected characteristic at a particular disadvantage compared to those who do not. The measure has not been found to indirectly discriminate against any of the protected characteristics listed in the 2010 Act.

Discrimination arising from disability and duty to make reasonable adjustments

- In so far as this policy/legislation extends to prisoners with disability who will be affected by the changes to sentencing, we will continue to provide reasonable adjustments as appropriate.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of affected offenders where those needs are different from the needs of those who do not share that protected characteristic. We consider that including victim protection within the sentencing proposal changes is likely to support the needs of victims overall.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

Extending maximum period of deferment orders

Policy summary

- A deferment order enables the court to delay passing a sentence for up to 6 months. A deferment order can include requirements about the offender's conduct during the period of deferment. Deferment orders enable sentencers to consider the offender's conduct after conviction and any change in their circumstances when making sentencing decisions.
- The ISR recommended that the maximum period of a deferment order is extended from 6 months to 12 months, to enable greater flexibility for sentencers to use their discretion to assess 'transitional life circumstances' that go beyond six months. This may be particularly useful for offenders experiencing serious illness or pregnancy.
- This measure will extend the maximum deferment order period to 12 months, in line with the ISR recommendation. It does not make any other changes to deferment orders.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure is not directly discriminatory within the meaning of the Equality Act 2010. Extending the maximum period of deferment orders does not treat people less favourably because of their protected characteristics and applies in the same way to all individuals who are in scope, regardless of their protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- Our assessment is that extending the maximum period of deferment orders from 6 months to 12 months should not cause particular disadvantage to any person due to their protected characteristics.

- Data on current use of deferment orders is limited. As recommended by the Independent Sentencing Review, we plan to explore options to improve data on the use of deferment orders and will consider equalities data as part of this.
- Deferment orders may be particularly useful for offenders experiencing transitional life circumstances, such as long-term illness or pregnancy, which may last longer than six months. This is because the courts could choose to delay a sentencing decision to allow an offender time to access necessary care. The measure to extend the maximum period of deferment orders may therefore be most beneficial for people with the protected characteristics of disability, and pregnancy and maternity.
- However, deferment orders would continue to be available to the courts in the usual way and are available to the courts in any case where the legislation applies.
- If it could be shown that people with a certain protected characteristic were put at a particular disadvantage, we believe it is a proportionate means of achieving our legitimate aim to give the courts more flexibility in their sentencing decisions.

Discrimination arising from disability and duty to make reasonable adjustments

- As set out above, we believe that the change to the maximum period of deferment orders may positively affect offenders who are disabled, or who are experiencing long-term illness or health conditions that last longer than six months. Not all offenders who are disabled will be in scope of the proposal, because not all offenders are eligible to receive a deferment order, and it would not be reasonable to make all disabled offenders eligible to receive a deferment order. It remains important to make reasonable adjustments and ensure appropriate support is given to all disabled offenders, regardless of their sentence.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of affected offenders where those needs are different from the needs of those who do not share that protected characteristic.
- The change to the maximum period of deferment orders will mean that some offenders may receive a longer period of deferment before a sentencing decision is made. This will increase their ability to access any necessary care

and/or complete any requirements about their conduct made by the court, such as attendance at rehabilitative programmes.

- The change will give the courts greater flexibility to consider the offender's conduct after conviction and any change in their circumstances when making sentencing decisions.
- A positive impact on communities will be an improved perception of public safety by reducing reoffending through use of community-based sentences rather than disruptive short sentences of immediate custody.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

Judicial finding of domestic abuse

Policy summary

- This legislative provision introduces a requirement for courts to formally state, in open court, when an offence involved domestic abuse. This aims to improve transparency, acknowledge the seriousness of domestic abuse, and ensure it is appropriately considered in sentencing decisions.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- The provision does not directly discriminate against individuals with protected characteristics. It applies equally to all offenders and victims, regardless of their background.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- There is no evidence to suggest that the measure would result in indirect discrimination. However, monitoring will be important to ensure that the policy is applied consistently and does not disproportionately affect any particular group.

Advancing equality of opportunity

- The measure may positively impact victims of domestic abuse, who are disproportionately women (approximately 70% of domestic abuse victims are women) and may include individuals with other protected characteristics (e.g., disability, pregnancy). By formally recognising domestic abuse in sentencing, the policy may help ensure that victims' experiences are acknowledged and taken seriously. The measure will make domestic abuse more visible and support a more effective justice system response.

Discrimination arising from disability and duty to make reasonable adjustments

- There are no anticipated negative impacts on individuals with disabilities. Courts are already under a duty to make reasonable adjustments, and this provision does not alter that obligation.

Fostering good relations

- The policy may contribute to fostering good relations by publicly acknowledging the seriousness of domestic abuse and reinforcing societal condemnation of such behaviour. This may help reduce stigma and support cultural change.

Parole – repeal of power

Policy summary

- The Root and Branch Review of the Parole System³ published by the previous government outlined the need for a precautionary approach to releasing offenders, in particular those who commit the most serious offences. The Review's commitments were legislated for in the Victims and Prisoners Act 2024.
- The Review also set out the previous government's intention to make law enforcement a statutory category of Parole Board membership. This measure was commenced in February 2025.
- The Act also provided for a power for the Secretary of State to require that certain types of member should sit on certain types of cases – aimed at law enforcement members sitting on top-tier cases. The Government has decided to repeal this power and leave decisions as to the composition of panels to the expertise of the Parole Board.

Equality considerations

Direct discrimination

- Our assessment is that the repeal of this power is not directly discriminatory. The power has never been commenced, but even if it had, it would not have treated anyone differently because of a protected characteristic.

Indirect discrimination

- Our assessment is that the repeal of this power is not indirectly discriminatory. It has not been commenced but even if it had, it would not have put those sharing a protected characteristic at a particular disadvantage compared to those who do not.

Discrimination arising from disability and duty to make reasonable adjustments

- Our assessment is that there is no impact arising under this heading. The power has not been commenced but even if it had, it would not have put

³ [Root and Branch Review of the Parole System - GOV.UK.](#)

disabled law enforcement Parole Board members at a particular disadvantage.

Advancing equality of opportunity

- The repeal of this power means that decisions on which type of members sit on which type of cases are for the Parole Board. There are around 29 law enforcement members currently among the Board's membership. The Parole Board has successfully made decisions on the composition of panels for many years and will use its expertise to continue making these decisions, including to deploy law enforcement members on cases.

Fostering good relations

- We have not identified any impact on this objective.

Parole - powers of High Court on referral

Policy summary

- The Root and Branch Review of the Parole System⁴ established a top-tier cohort, made up of offenders convicted of the index offences of murder, rape, terrorism and terrorism-connected offences and causing or allowing the death of a child. The Review also provided for greater scrutiny by Ministers of top-tier offenders.
- The parole referral power enacts the key commitment of greater scrutiny by Ministers of top-tier cases. The power provides that the Secretary of State can direct the Parole Board to refer top-tier release decisions that it has made to the High Court. The High Court will then make a fresh release decision.
- The Government has identified an unintended gap in the operation of the referral power in that it does not apply to cases where the Parole Board has directed the unconditional release of the prisoner, i.e. release without a licence. This only affects recalled offenders serving sentences of imprisonment for public protection (IPP) or detention for public protection that have had a determination by the Parole Board for release and termination of their licence where the Secretary of State considers it necessary to refer the case to the High Court because she considers the court may make a different decision on release.
- The technical amendment in this Bill rectifies this unintended omission and ensures that the policy intention is met so that the referral power applies to all top-tier offenders with a release decision, whether that release is conditional or unconditional.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that the referral power is not directly discriminatory within the meaning of the 2010 Act. All offenders within the top-tier, regardless of the type of sentence they are serving, are in scope for the referral power. The policy will not treat anyone less favourably as a result of a protected characteristic.

⁴ [Root and Branch Review of the Parole System - GOV.UK.](#)

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- For this statement, we are using the IPP cohort as a whole as a proxy for the recalled IPP cohort. The data we are using covers IPP prisoners who have been sentenced for all types of offences, not just the top-tier offences that the referral power applies to. The data includes those who were sentenced to detention for public protection sentences (the youth equivalent to IPPs).

Affected groups

- Data about IPP offenders is published regularly within the Ministry of Justice's *Offender Management statistics quarterly*⁵ and we can identify protected characteristics in relation to sex, age and race.
- **Female offenders appear underrepresented:**
 - IPP offenders in prison are overwhelmingly male. As at 31 March 2025, there are 1,012 unreleased IPP prisoners, of which 1,005 (99%) are male and seven (1%) are female.
 - There are 1,532 recalled IPP prisoners in prisons, of which 1,509 (98%) are male and 23 (2%) are female.
 - IPP offenders on licence are also overwhelmingly male. As at 31 December 2024, there were 1,376 IPP offenders on licence. Of these, 1,325 (96%) were male and 51 (4%) were female.
- **Young adults and older adults appear underrepresented:**
 - As at 30 June 2024⁶ (the most recent published IPP data by age), the total number of IPP prisoners was 1,132 (the data does not break down into unreleased or recalled prisoners). Of those, 682 (60%) were aged between 30 and 49. Whilst accounting for almost half of the general adult population, those aged 50 and over accounted for 39% of IPP prisoners at that time. There were no IPP prisoners aged under 25.

⁵ [Offender management statistics quarterly: October to December 2024 - GOV.UK](#).

⁶ Annual prison population tables, [Offender management statistics quarterly: January to March 2024 - GOV.UK](#).

- Data on the age of those subject to an IPP sentence who have been released on licence is not published.
- **Individuals from black background appear overrepresented:**
 - As at 30 June 2024⁷ (the annual prison population publication provides IPP data by ethnicity), of the total 1,132 unreleased IPP prisoners at that time, 893 (79%) were white, while 21% were from an ethnic minority group, including 133 (12%) who were from a black or black British background.
 - Data on the ethnicity of those subject to an IPP sentence who have been released on licence is not published.
- Our assessment is that the referral power is not indirectly discriminatory within the meaning of the 2010 Act.
- The available data indicates that the policy is more likely to affect men and those from a Black background. Those from a Black background are overrepresented compared with the census data on the population as a whole, so are more likely to be in the cohort affected by this change.
- Even though these groups are overrepresented, we believe that such an impact is justified in achieving the policy aim. The aim of the policy is to protect the public by introducing a second check on the most serious of parole cases and to improve public confidence in the parole process. This must include all offenders who have been convicted of a top-tier offence in order to achieve the policy objective of public protection. We think that these aims are an appropriate balance against consideration of, and protections for, individual privacy, personal risk and rehabilitation. In order to achieve the policy objective of public protection. We think that these aims are an appropriate balance against consideration of, and protections for, individual privacy, personal risk and rehabilitation.

Discrimination arising from disability and duty to make reasonable adjustments

- We do not consider that the policy is likely to result in any unlawful discrimination on the grounds of disability. In so far as this policy change

⁷ Annual prison population tables, [Offender management statistics quarterly: January to March 2024 - GOV.UK](#).

extends to disabled IPP offenders, reasonable adjustments are already in place in prisons and we do not consider that any further adjustments are necessary as a result of this policy.

Advancing equality of opportunity

- We have not identified any impact on this objective.

Fostering good relations

- We have not identified any impact on this objective.

Powers of the Sentencing Council

Policy summary

- This measure will introduce a statutory requirement for the Sentencing Council to publish an annual business plan, subject to prior approval by the Lord Chancellor. It will also introduce a statutory requirement that the Lord Chancellor and Lady Chief Justice must both approve sentencing guidelines before the Sentencing Council can issue them as final, definitive guidelines.
- For completeness, this measure will not directly impact the Sentencing Council's existing obligations to comply with the PSED in undertaking its work (including the development of sentencing guidelines).

Equality considerations

Direct discrimination

- Our assessment is that this measure is not directly discriminatory within the meaning of the 2010 Act. It does not treat people less favourably because of their protected characteristics and it applies in the same way to all individuals who are in scope, regardless of their protected characteristics.

Indirect discrimination

- Our assessment is that this measure does not indirectly discriminate against any of the protected characteristics listed in the 2010 Act.

Discrimination arising from disability and duty to make reasonable adjustments

- Our assessment is that this measure is not likely to result in any discrimination against those with disabilities.

Advancing equality of opportunity

- We do not consider that this measure would have any negative impact on the achievement of this objective.

Fostering good relations

- We do not consider that this measure would have any negative impact on the achievement of this objective.

2. Remand

Amending the “no real prospect” test in the Bail Act 1976

Policy summary

- Following the presumption to suspend custodial sentences of 12 months or less, the Government is amending the “no real prospect” test in the Bail Act 1976, so that fewer exceptions to bail apply in cases where a sentence of immediate imprisonment is unlikely. Alongside this measure, the Government is also amending the Act to allow the court to impose an electronic monitoring requirement on those who would now be bailed as a result of this change.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure is not directly discriminatory within the meaning of the Equality Act 2010.
- These changes to the Bail Act 1976 do not treat people less favourably because of their protected characteristics and applies in the same way to all individuals who are in scope, regardless of their protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those sharing a protected characteristic at a particular disadvantage compared to those who do not.
- Our assessment is that being remanded on bail in place of being remanded into custody does not cause particular disadvantage to any person due to their protected characteristics, noting that some protected groups appear underrepresented in the affected population, as set out below.
- If it could be shown that people with a certain protected characteristic were put at a particular disadvantage, we believe it is a proportionate means of achieving our legitimate aim of limiting the use of custodial remand where an immediate custodial sentence is unlikely.

Data on affected groups

- The group principally affected by the changes will be adult defendants who are held on custodial remand and go on to receive a custodial sentence of 12 months or less. As a result of the presumption to suspend these sentences, and the subsequent changes to the Bail Act 1976, the availability of custodial remand in these cases will be limited and these defendants should now be more likely to be bailed.
- We also expect that defendants who are held on custodial remand and go on to receive a non-custodial sentence will also now be more likely to be bailed.
- Published data that would inform whether individuals among the affected group with certain protected characteristics will be disproportionately affected is limited. The latest Ministry of Justice's ⁸ provides data on those remanded in 2024 according to some characteristics: sex, ethnicity and age.
- For this equalities analysis we are comparing the group most likely to be affected by this policy – those adults currently remanded who go on to receive a non-custodial or short immediate custodial sentence of 12 months or less⁹ – against all adults remanded and the general adult population.
- This data (also see Annex E) suggests that some characteristics may be underrepresented in the population most likely to be affected by this policy.
- **Defendants from a white or Asian ethnic minority background appear to be slightly underrepresented:**
 - In 2024, where ethnicity was known, 79% of those remanded to custody and 81% of those remanded to custody who went on to receive a non-custodial or short custodial sentence (12 months or less) were white.
 - Asian defendants accounted for 5% of those remanded in 2024 who went on to receive a non-custodial sentence or sentence of 12 months or less; 7% of all adults remanded; and 9% of the general adult population.
 - Compared to the general adult population, Black and mixed defendants accounted for a slightly higher proportion of adults remanded to custody in 2024 and adults remanded who went on to receive a non-custodial or short custodial sentence (12 months or less). While overrepresentation of Black and mixed defendants is noted, this does not necessarily indicate a

⁸ MoJ (2025), Remands data tool 2017 to 2024, [Criminal Justice System statistics quarterly: December 2024 - GOV.UK](#) Children, companies and those of unknown age are excluded from figures.

⁹ Those whose case was withdrawn, acquitted or where outcome is unknown have been excluded.

disproportionate disadvantage from this policy, as they are more likely to benefit from increased use of bail.

- **Female defendants appear to be underrepresented:**

- In 2024, female defendants accounted for 7% of all adults remanded and 9% of those remanded to custody who went on to receive a non-custodial or short custodial sentence (12 months or less) whilst accounting for 52% of adults in the general population.

- **Defendants aged 50 and over appear to be underrepresented:**

- Whilst accounting for almost half the general adult population, those aged 50 and over accounted for only 10% of adults remanded in 2024 and 10% of those of those remanded to custody who went on to receive a non-custodial or short custodial sentence (12 months or less).

Discrimination arising from disability and duty to make reasonable adjustments

- In terms of defendants who are disabled, we believe that the policy is proportionate, having regard to its aim.
- Not all defendants who are disabled will be in scope of the changes, because they do not apply to all defendants. It remains important to make reasonable adjustments and ensure appropriate support is given to all disabled defendants.

Advancing equality of opportunity

- Consideration has been given to how these changes impact on the duty to advance equality of opportunity by meeting the needs of affected defendants where those needs are different from the needs of those who do not share that protected characteristic.
- This measure will mean that some defendants who would have otherwise been remanded into custody will now be bailed. This will increase their ability to maintain their lives in the community pending the outcome of their court proceedings.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

Amending the statutory factors relevant to bail

Policy summary

- The Bail Act 1976 currently provides that when considering whether certain exceptions to bail apply, the court should have regard to certain factors such as the character of the defendant, the seriousness of their offence, “as well as to any others which appear to be relevant”. Reflecting the Government’s ambitions to reduce the number of women going to prison, the Bill adds the following factors as potentially relevant factors to this list: the defendant is pregnant; the defendant is a primary caregiver; and the defendant has been a victim of domestic abuse. While these factors, for example pregnancy, which is a protected characteristic, are already taken into account by the court where relevant, including them in legislation will help ensure that the court takes them into consideration.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure is not directly discriminatory within the meaning of the Equality Act 2010.
- This measure does not treat people less favourably because of their protected characteristics and it applies in the same way to all individuals who are in scope, regardless of their protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those sharing a protected characteristic at a particular disadvantage compared to those who do not.
- There is no evidence to suggest that the measure would result in indirect discrimination. While the limited available data set out below indicates that men are under-represented in the affected group pregnancy affects women, women are more often primary carers, and women more likely to be victims of domestic abuse - it remains the case that courts should consider any relevant factor when deciding whether to grant bail, whether or not it is explicitly listed in legislation.

The change does not result in anyone being treated less favourably due to their protected characteristics.

- If it could be shown that people with a certain protected characteristic were put at a particular disadvantage, we believe it is a proportionate means of achieving our legitimate aim of ensuring that the court takes into account all relevant factors when considering the relevant exceptions to bail.

Data on affected groups

- The group principally affected by the measure will be defendants who are pregnant, a primary caregiver, or a victim of domestic abuse who are subject to a court decision on whether or not to apply certain exceptions to bail. As a result of the measure, the court may give greater consideration to these factors and the defendant may now be more likely to be bailed.
- There is limited published data that would inform whether defendants with these factors that have certain protected characteristics would be disproportionately affected compared to defendants without these factors.
- With regards to pregnancy, this factor only applies to female defendants. There were 215 self-declared pregnant women in prison during the 12-month period from April 2023 to March 2024.¹ Where custody data was available, around a third (34%) were found to be on remand when their pregnancy was declared to HMPPS.² Data on other protected characteristics for this cohort is not available.
- Data on defendants who are primary carers is not available. Wider data shows that over half (53%) of all people who spent time in prison during the year to 1 October 2022 were identified as having dependent children in HMPPS data sources (55% of women and 53% of men) and this estimate rose to 78% once potential undercounting was adjusted for.³ Wider data and evidence indicates that women are much more likely to be a primary caregiver than men.⁴
- Whilst no data is available on defendants who may have been a victim of domestic abuse, data for 31 October 2024 shows that of those in custody with an assessment:⁵
 - Men are less likely to be assessed as having a domestic abuse need: 10% of males in custody compared with 68% of females in custody.
 - Young adults (aged 18-25) and older people in prison (aged 60+) are less likely to be assessed as having a domestic abuse need: 7% of people in

custody within each of these age groups, whereas the percentage ranges from 10%-15% of other age groups (12% of all those in custody).

- Those from an Asian, Black or Other ethnic background were less likely to be assessed as having a domestic abuse need (5%, 6% and 4% respectively) compared to 12% for all those in custody.

Discrimination arising from disability and duty to make reasonable adjustments

- In terms of defendants who are disabled, we believe that the policy is proportionate, having regard to its aim.
- It remains important to make reasonable adjustments and ensure appropriate support is given to all disabled defendants.

Advancing equality of opportunity

- Consideration has been given to how these changes impact on the duty to advance equality of opportunity by meeting the needs of affected defendants where those needs are different from the needs of those who do not share that protected characteristic.
- This measure may mean that some defendants who would have otherwise been remanded into custody will now be bailed. This will increase their ability to maintain their lives in the community pending the outcome of their court proceedings.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

3. SDS progression

Change in SDS release point

Policy summary

- The Sentencing Bill provides the statutory basis for the proposed changes to standard determinate sentence (SDS) release points. A standard determinate sentence is the most common type of custodial sentence issued by the courts. These sentences are available for most crimes. The Government has rejected the Independent Sentencing Review's recommendation to introduce an earned progression model for those serving extended determinate sentences (EDS), as these offenders have been found by the court to be dangerous.
- The new Progression model sets a minimum release point of one third for those serving standard determinate sentences which currently have an automatic release of 40 or 50%. This point may be later if they have been awarded added days by an Independent Adjudicator for serious rule breaking. Similarly, those who were formerly released at the two-thirds point will now have a minimum of halfway, with release timing also affected by any added days. Prisons and probation staff will continue to risk assess individuals in preparation for release, to ensure they are safely and appropriately managed in the community, with the correct licence conditions and restrictions in place from the outset.
- Prisoners serving indeterminate sentences (life sentences and those continuing to serve imprisonment for public protection sentences), extended determinate sentences and sentences for offenders of particular concern are not impacted by this change. The change will apply equally to male and female prisoners. It will apply to those currently serving custodial sentences in prisons in England and Wales.
- These new release points will not apply to children serving section 250 sentences when the Bill is introduced.

Equality considerations

- Data on the prison population on 31st March 2025¹⁰ (full data available at Annex C) shows that:

¹⁰ Of sentenced prisoners in the prison population on 31 March 2025 (80% of the total prison population). Based on "Prison population: 31 March 2025" at <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2024>

- **Men are more likely to be impacted by these measures:**
 - In March 2025, men accounted for 96% of all sentenced prisoners compared to 48% of the adult population of England and Wales¹¹.
- **Individuals aged 25-49 are likely to be disproportionately impacted by these measures:**
 - 69% of individuals of sentenced prisoners are between the ages of 25 and 49, compared to 41% of the adult population of England and Wales.
- **Individuals from Black or mixed ethnic backgrounds are likely to be disproportionately impacted by these measures:**
 - 12% of sentenced prisoners are from Black backgrounds, compared to 4% of the adult population of England and Wales. 5% of sentenced prisoners are from mixed backgrounds, compared to 2% of the adult population of England and Wales.
 - By virtue of the overrepresentation of men, individuals aged 25-49, and those from Black backgrounds, we acknowledge that these measures are more likely to affect these groups. We do not, however, consider that this overrepresentation will likely result in any disadvantage, as the measures will apply equally to all prisoners, regardless of gender, age, or ethnicity, based solely on the type of sentence imposed by the courts.
- In terms of mental health, a joint Justice Inspectorates report published in 2021 recorded that 48 per cent of prisoners in men's prisons and 70 per cent in women's prisons reported having mental health problems.

Direct discrimination

¹¹ 2021 Census data, England and Wales, those age 18 and over:

Sex <https://www.ons.gov.uk/datasets/RM121/editions/2021/versions/1>

Age <https://www.ons.gov.uk/datasets/TS007/editions/2021/versions/1>

Ethnicity <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/age-groups/latest/>

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- The Department's assessment is that the measure itself does not directly discriminate people with protected characteristics defined and listed in the Equality Act 2010. This is because the measure will apply to eligible adult standard determinate sentences equally and automatically, without any judgement-based decisions needing to be made. We do not therefore consider that the change to the release point will result in any adult being treated less favourably because of any protected characteristic.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- Based on the data above and in applying the changes in the same way to all eligible sentences, this shows that proportionately more individuals included will be men, individuals aged 25-49, and those from Black backgrounds, and so will be disproportionately affected by the revised release point, due to their general over-representation in prisons. The proposed change will likely have a positive effect on such cohorts who may obtain release earlier and following their release into the community where they will be supervised and supported by the Probation Service, considering their protected characteristics and identified rehabilitative needs. Overall, therefore, in relation to indirect discrimination, we do not consider that the proposals are likely to result in any offenders with protected characteristics suffering a particular disadvantage when compared to someone who does not share the protected characteristic.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to have due regard to the need to advance equality of opportunity by meeting the needs of prisoners who share a protected characteristic, where those needs are different from the needs of those who do not share that particular characteristic. Due to the over-representation of prisoners with protected characteristics indicated in the evidence section above, the proposals are considered likely to have a positive impact on advancing equality of opportunity. This is because the effect on such cohorts following their release into the community means they will be supervised and supported by the Probation Service, considering their protected characteristics and identified rehabilitative needs.

Discrimination arising from disability and duty to make reasonable adjustments

- Where the release point change includes prisoners with disabilities, we believe the policy is positive and will not be likely to result in any discrimination. We recognise it remains important to continue to make reasonable adjustments for prisoners with disabilities to ensure appropriate support is given. This includes on release into the community where tailored support is given in relation to, for example, accommodation needs, medical requirements (regarding physical and/or mental health), and support with attending probation appointments where necessary.

Offenders under the age of 18

- These changes to early release points will not apply to youth sentences. We recognise these changes create differences between how adults and children are treated. However, youth sentences were not considered by the Independent Review of Sentencing and so the recommended changes to release dates were designed for the adult system. We will be retaining Home Detention Curfew for individuals serving s250s to ensure that eligible individuals will still have access to earlier release. We will consider release arrangement for those serving youth sentences separately, in a manner that properly accounts for the circumstances and needs of children who offend.

Fostering good relations

- Consideration has been given to the objective of fostering good relations. The change will support effective rehabilitation and – along with other measures such as prison building – ensure the CJS is on a sustainable footing that will command public confidence.

Restrictive licence conditions

Policy summary

- This Bill will provide probation the power to set new restrictive conditions for offenders on licence. This will allow probation to manage offenders robustly in the community and maintain public confidence in the service. These clauses will provide that offenders can be given new restrictive conditions on licence upon release. These clauses will prohibit offenders on licence from driving, grant probation the power to drug test any offender on licence, and prohibit offenders from attending public events, drinking and entertainment establishments that includes pubs, clubs and bars. There is also a provision to allow probation to set a restriction zone on a discretionary basis.

Equality considerations

- Analysis of the licence caseload on 31st October 2024¹² (full data available at Annex D) shows that:
- **Men are more likely to be impacted by these measures:**
 - In October 2024, men accounted for 94% of the licence caseload compared to 48% of the adult population of England and Wales.
- **Individuals aged 25-49 are likely to be disproportionately impacted by these measures:**
 - 69% of individuals on licence are between the ages of 25 and 49, compared to 41% of the adult population of England and Wales.
- **Individuals from Black backgrounds are likely to be disproportionately impacted by these measures:**
 - 11% of the licence population are from Black backgrounds, compared to 4% of the adult population of England and Wales.
- **Individuals with a disability are likely to be disproportionately impacted by these measures:**

¹² Of those on licence with a full Offender Assessment System assessment on 31 October 2024 (94% of the licence caseload)

- 48% of people on licence have an identified disability (including learning disabilities and challenges), compared to 18% of the general population.
- By virtue of the overrepresentation of men, individuals aged 25-49, those from Black backgrounds and those with disabilities in the cohort, we acknowledge that these measures are more likely to affect this group. We do not, however, consider that this overrepresentation will likely result in any disadvantage.
- Based on the data available, amongst those on licence there is no overrepresentation of any sexual orientation, and the measures are therefore not expected to result in disproportionate impacts on this basis.
- Protected characteristics of those on licence with and without a drug misuse need have also been analysed (available at Annex D), and do not identify any additional areas of impact.

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- The Department's assessment is that the new restrictive measures themselves do not directly discriminate on people with protected characteristics defined and listed in the Equality Act 2010. This is because the measures can be applied to individuals (subject to exclusions for vulnerabilities) released from custody into the community into probation supervision, with the exception of restriction zones which will be applied on an individual basis and the area of restriction will be proportionately applied to the individual.
- The Department's assessment is that we consider the introduction of restriction zones for individuals on licence is not directly discriminatory within the meaning of the Equality Act 2010. Probation practitioners will be applying such conditions in respect of the type of offending rather than protected characteristics.
- The Department's assessment is that we consider allowing drug testing of any offender on licence, and the prohibition of driving and attendance at sporting and public events, pubs, bars and clubs for offenders on licence, are not directly discriminatory within the meaning of the Equality Act 2010. These measures can be applied for all individuals on licence.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- The Department's assessment is that these measures are not indirectly discriminatory to people with protected characteristics, however we have considered the impacts of the measures in each clause below including the possible indirect discrimination which may be incurred as a result of new restrictions on offenders on licence.
- For these measures, as there is a level of professional judgment for probation staff in triggering a recall for an individual for breach of their licence conditions to custody, there may be potential for unconscious bias. However, this is currently the approach taken with recall for breach of licence conditions for those on probation so we do not consider that these measures will increase any further bias into that process. Probation practitioners have risk assessment tools to enable them to make risk-based decisions, and the decision is not reliant on one single person. A request to recall will be commenced following a conversation between a probation practitioner and a Senior Probation Officer, that then goes to a Probation Delivery Unit Head to countersign before being finally (if agreed) signed off by Public Protection Casework Section (PPCS) on behalf of the Secretary of State. Probation staff also undertake unconscious bias training on a regular basis (every 3 years). The threshold for reactivation will also be high and so there will be protection from unconscious bias as decisions will have to be carefully considered and will be subject to scrutiny from a range of stakeholders.

Restriction zones

- The restrictive measure of introducing restriction zones for specific individuals (or cohorts) could be capable of indirect discrimination against some groups if areas were applied without any consideration of individual needs for access. This will be mitigated by individual decision on restriction areas being proportionately applied for the particular individual ensuring access to facilities, including medical services, places of worship, schools and other childcare or essential family support services. In order to mitigate the impacts of this, we consider that probation practitioners can create restriction zones that have adequate accessibility requirements and enable offenders with mobility issues or those who are disabled to be supported appropriately and for individuals to access other services which will provide them equitable treatment (i.e. places of worship or schools/nurseries for parents) as dictated by their needs.

- Additionally, to mitigate this, the Department will ensure that probation practitioners are guided by clear, standardised criteria to minimise the risk of inconsistent or unconscious bias when designing restriction zones.

Prohibition of driving

- The restrictive measure of prohibiting driving may indirectly discriminate against some cohorts. For example, prohibiting certain offenders from driving may impact older offenders with mobility issues or those who are disabled as their ability to travel will be impacted if they are unable to drive. The clause prescribes that offenders can be allowed to drive with permission from their supervising officer and so we consider that this will allow the appropriate discretion where needed for older offenders and those with disabilities affecting their mobility.

Expansion of drug testing on licence

- This measure will allow probation to drug test any offender on licence, regardless of sex, race, religion, disability, or other protected characteristics. However, as noted above, all restrictive licence conditions have the potential to indirectly discriminate certain groups in the licence cohort, based on the protected characteristics of the licence caseload compared to the general population (see section 3).

Public event ban

- We consider that a ban prohibiting offenders from attending public events (including sports events) is not likely to have an indirect discriminatory impact. Consideration has been given to the types of event which an individual may need to attend, for instance religious or family events, however as these are private events and are therefore not in scope, we do not consider that this measure will have indirect discriminatory impacts based on a protected characteristic. Further, probation practitioners will have discretion supported by guidance to grant permission to ensure there is not a discriminatory impact.

Pubs, bar and club ban

- We consider that a ban prohibiting offenders from attending pubs, bars and clubs is not likely to have an indirect discriminatory impact. Given the types of establishment that this will impact, there may be some changes necessary in order to ensure family ties can be maintained, such as attending a restaurant instead of a pub. Further, there is a possibility that a ban on attending clubs will be likely to impact younger people more than older people, however given the intention to prohibit attendance is consistent across all age groups there are unlikely to be worse outcomes for one cohort. Where attendance is

necessary for a rehabilitative or other essential purpose, practitioners will have the ability to use discretion, supported by guidance, to grant permission to ensure there is not a discriminatory impact.

Advancing equality of opportunity

- Consideration has been given to advancing equality of opportunity within the restrictive licence conditions and it is believed by having the ability to restrict offenders equally, all the groups listed in the protected characteristics in the Equality Act 2010 are equally restricted. We consider that this may impact opportunities for those who are subject to these restrictive conditions, but that this can be applied universally, i.e. individuals under probation supervision can be subject to the same conditions. Further, current licence conditions enable supervising officers to grant exemptions via 'prior permission' and will continue to do so (for prohibition of driving, attendance at public events, pubs and clubs) and therefore there will be a mechanism for mitigation of any differential treatment where there is no risk to the public and it is safe and appropriate to do so.
- The Department's assessment is that while restriction zones are designed to enhance public safety by limiting offenders' movements, care in setting an individual zone proportionately must be taken to mitigate against any risk that inadvertently undermines the principle of equality of opportunity. Supervising officers will need to take into account that zones can disproportionately affect older offenders, ethnic minorities, and offenders of a lower income.

Discrimination arising from disability and duty to make reasonable adjustments

- As previously outlined regarding prohibition of driving, the restrictive measure of prohibiting driving may indirectly discriminate against some cohorts. For example, prohibiting offenders from driving may impact older offenders with mobility issues or those who are disabled as their ability to travel will be impacted if they are unable to drive. To prevent discrimination, restrictive measures could be reasonably adjusted for those individuals who require travelling in a car.
- As previously outlined restriction zones may indirectly discriminate against some cohorts. For example, restricting offenders to a certain geographic zone may impact older offenders with mobility issues or those who are disabled as the desired zone could not have the necessary access needs. To prevent this, probation practitioners will actively create restriction zones that have adequate accessibility and enable offenders with mobility issues or those who are disabled to be supported appropriately.

- Aside from this, our assessment is that the restrictive conditions are not likely to result in any discrimination against those with disabilities. Probation will continue to follow operational guidance and make reasonable adjustments to deliver their services to those with disabilities by undertaking home visits for drug tests and liaising with medical practitioners if required.

Fostering good relations

- The Department does not consider that the restrictive licence measures would have any negative impact on the achievement of this objective. Given restriction zones may limit an offender's ability to engage with others, there is a need to reduce prejudice and ensure that they are not impeded from opportunities to foster mutual understanding and positive relations between different groups of people. However, the Department consider that technology can facilitate structured interactions that promote social reintegration, even within a restricted zone as the individual will be in the community, and therefore less restricted than in custody.

Post-sentence supervision

Policy summary

- This Bill will remove the requirement for post-sentence supervision (PSS). PSS is a specific provision that applies to any offender convicted for an offence who is released from a custodial sentence of more than one day but less than two years. All those released from custody will be managed under the conditions of the new progression model.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- The Department's assessment is that the removal of PSS is not directly discriminatory within the meaning of the Equality Act as it does not treat people unfavourably on account of their protected characteristics. The change will apply automatically to all eligible adult prisoners serving standard determinate sentences, without the need for judgement-based decisions.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- There is no evidence to suggest that the removal of PSS would place any group at a particular disadvantage.

Advancing equality of opportunity

- Consideration has been given to how the Bill impacts on the duty to have due regard to the need to advance equality of opportunity by meeting the needs of prisoners and offenders in the community who share a protected characteristic, where those needs are different from the needs of those who do not share that particular characteristic. The proposals are not considered to have a likely impact on equality of opportunity.

Fostering good relations

- The Department does not consider that these measures would have any significant impact on the achievement of this objective.

Recall

Policy summary

- This Bill will introduce a longer fixed term recall of 56 days for eligible SDS offenders, replacing the existing shorter-term recall of 14 or 28 days, and it will remove standard recall, except in exceptional circumstances. After 56 days, eligible SDS offenders will be automatically released back into the community. Extending the length of the fixed term period will provide probation practitioners more time for planning around appropriate conditions for the offender's safe re-release into community supervision.
- To ensure the public are protected, certain groups of SDS offender are excluded from this measure and will only be able to receive a standard recall:
 - Offenders under the highest risk management levels (Multi Agency Public Protection Arrangement "MAPPA" levels 2 and 3).
 - Offenders who have been convicted of terrorism or terrorism connected offences, as well as those who pose a terrorist risk.
 - Offenders who have been convicted of certain offences involving or connected with a threat to national security, as well as those who may be at risk of involvement in foreign power threat activity.
 - Offenders who have been recalled on account of being charged with an offence.
 - Offenders serving a sentence for offenders of particular concern (SOPC) will also be excluded.
- Additionally, the Bill will introduce an accompanying measure, to be used in exceptional circumstances, that enables the Secretary of State to determine that an offender is not suitable for automatic release where further information is received that the offender now meets the above exclusions after being recalled.
- The Bill also introduces a new power to keep SDS offenders in custody beyond 56 days where the Secretary of State believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of murder or certain specified violent, sexual or terrorist offences.

Equality considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- The Department's assessment is that the changes to the fixed term recall are not directly discriminatory because any recall is based on the behaviour of the offender in the community and their risk to the public and not on any protected characteristic.
- The order will apply to all offenders, including those with protected characteristics, equally. However, certain groups are excluded from this measure: terrorist and terrorist risk offenders, offenders convicted of certain national security offences and persons who may be at risk of involvement in foreign power threat activity, offenders managed at MAPPA levels 2 and 3, and individuals recalled to custody because they have been charged with a new offence.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- We do not consider that these measures would result in indirect discrimination given that they will be applied in the same way to all individuals in scope and are not considered likely to result in any disadvantage for those with certain protected characteristics compared to those who do not share those characteristics. However, it is possible that certain groups with a protected characteristic (for example faith) may be over-represented in the cohorts excluded from fixed term recall. As previously stated, we will continue to monitor the cohorts who are excluded and whether any particular groups are overrepresented. However, the exclusions are based on seriousness of offending and risk and not any characteristic of the offender.

Advancing equality of opportunity

- Consideration has been given to how this proposal impacts on the duty to have due regard to the need to advance equality of opportunity by meeting the needs of prisoners who share a protected characteristic, where those needs are different from the needs of those who do not share that particular characteristic.

- Following their release into the community offenders will be supervised and supported by the Probation Service, considering their protected characteristics and identified rehabilitative needs.

Discrimination arising from disability and duty to make reasonable adjustments

- Where the changes impact offenders with disabilities, we believe these changes will not be likely to result in any discrimination. We recognise it remains important to continue to make reasonable adjustments for prisoners with disabilities to ensure appropriate support is given.
- This includes on release into the community where tailored support is given in relation to, for example, accommodation needs, medical requirements (regarding physical and/or mental health), and support with attending probation appointments where necessary.

Offenders under the age of 18

- These changes will not apply to youth sentences. We recognise this creates a difference between how those sentenced as children and adults are treated. However, youth sentences were not considered by the Independent Review of Sentencing and the recommended changes to recall were designed for adults and in light of operational pressures that are not experienced on the youth side. Separate consideration of the youth framework is required and will be undertaken in slower time. The Bill will not necessarily mean those on youth sentences are recalled to custody for longer than adults – there will continue to be the option of a fixed term recall of 14 or 28 days where the offender's risk can be appropriately managed in the community.

Fostering good relations

- Consideration has been given to the objective of fostering good relations. Introducing this change is unlikely to impact on fostering good relations between groups with different protected characteristics.

National Security Offences

Policy summary

- This Bill will make provision to ensure that individuals convicted of certain offences involving or connected with a threat to national security must be given at least a SOPC. For the purposes of this policy, the relevant offences are those under the National Security Act 2023 and Official Secrets Acts that carry a maximum penalty of more than two years' imprisonment, as well as those which are determined by the court to have a foreign power connection under section 69A of the Sentencing Act 2020, and inchoate offences.
- Bringing these offences into the SOPC regime will remove the possibility of relevant offenders being eligible for an SDS.
- Hostile states are becoming increasingly assertive in how they advance their own objectives and undermine the safety and interests of the UK, including operating covertly in an attempt to interfere with the UK's national security, economy and democracy. This change to extend eligibility for a SOPC reflects the significant national security risk that those who commit the relevant offences can present, due to their adverse impact on our domestic security and their potential scale of resource.
- National security is a reserved matter in Scotland and excepted matter in Northern Ireland and the Bill will make provision to ensure that the effect of this change applies UK-wide.

Equality considerations

Direct Discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- The provisions in the Bill apply to all members of the public who are convicted of certain offences involving or connected with a threat to national security. We do not consider that there is any direct discrimination within the meaning of the Equality Act as people with protected characteristics are not treated unfavourably on account of their protected characteristics. The law applies equally to all offenders charged and convicted of these offences.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- The aim behind this Bill is to strengthen the sentencing and release framework for certain offences involving or connected with a threat to national security, which can include offenders who have carried out conduct for or on behalf of a hostile foreign power. This change will amend the list of offences eligible for a SOPC.
- The change will apply to all members of the public who are convicted and sentenced for a relevant national security offence. Sentencing is a matter for the courts to determine in individual cases, based on the full facts of the case and the offender before them.
- The Department does not consider this change will put those with a particular characteristic at a disadvantage to others and therefore does not assess that it will be indirectly discriminatory within the meaning of the Equality Act 2010.

Advancing equality of opportunity

- Consideration has been given to how the Bill impacts on the duty to have due regard to the need to advance equality of opportunity by meeting the needs of prisoners and offenders in the community who share a protected characteristic, where those needs are different from the needs of those who do not share that particular characteristic. The proposals are not considered to have a likely impact on equality of opportunity.

Discrimination arising from disability and duty to make reasonable adjustments

- The Department does not consider that there is likely to be any discrimination in relation to disability and will continue to make reasonable adjustments for disabled people impacted by the policy proposals.

Fostering good relations

- The Department does not consider that these measures would have any significant impact on the achievement of this objective.

Repatriated offenders serving fixed term sentences for murder

Policy summary

- The clauses in the Bill will revise the statutory release points for individuals repatriated to England and Wales pursuant to a warrant issued under section 1 of the Repatriation of Prisoners Act 1984 who have received a fixed term sentence for murder. For these offenders, the statutory release point will be two-thirds. These offenders will remain on licence until the end of their sentence and if recalled while on licence, they will only be eligible for a standard recall. This measure will bring repatriated offenders serving a fixed term sentence for murder into line with the calculation of the minimum term for those offenders who receive a discretionary life sentence.

Equality considerations

Direct Discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- The provisions in the Bill apply to all members of the public who are repatriated to England and Wales pursuant to a warrant issued under Section 1 of the Repatriation of Prisoners Act 1984 who have received a fixed term sentence for murder. There is therefore no direct discrimination within the meaning of the Equality Act as the law applies equally to all offenders charged and convicted of these offences. We do not consider that this results in people being treated less favourably because of protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- Sentencing is a matter for the courts to determine in individual cases, based on the full facts of the case and of the offender before them. The aim behind this Bill is to strengthen the release framework for offenders who have received a fixed term sentence for murder outside of England and Wales.
- The provisions of this Bill apply to all members of the public who are repatriated to England and Wales pursuant to a warrant issued under Section 1 of the Repatriation of Prisoners Act 1984 who have received a fixed term sentence for murder. The cohort this would apply to is very small.

Advancing equality of opportunity

- Consideration has been given to how the Bill impacts on the duty to have due regard to the need to advance equality of opportunity by meeting the needs of prisoners and offenders in the community who share a protected characteristic, where those needs are different from the needs of those who do not share that particular characteristic. The proposals are not considered to have a likely impact on equality of opportunity.

Discrimination arising from disability and duty to make reasonable adjustments

- The Department does not consider that there is likely to be any discrimination in relation to disability and will continue to make reasonable adjustments for disabled people impacted by the policy proposals.

Fostering good relations

- The Department does not consider that these measures would have any significant impact on the achievement of this objective.

4. Probation: community measures

Policy summary

- The measures outlined in this Bill will result in more offenders moving away from custody and into the community which will further increase the pressure on the Probation Service. We are therefore seeking to introduce two measures to support an efficient Probation Service. Firstly, we are enabling unpaid work hours to be delivered over the entire length of the sentence, thus avoiding current time spent returning cases to court for extensions and freeing up time for probation staff to work with offenders and protect the public. We are also replacing the current 'Rehabilitation Activity Requirement' with a new requirement which will allow for the specific rehabilitation approach to be set following an assessment by Probation. We are also introducing a progression model for community sentences. This will seek to reward offenders who comply with the order and demonstrate good behaviour with an earned reduction in unpaid work hours, and with earned termination once the sentence plan is complete.

Equalities considerations

- In considering the impacts, we have analysed the caseload of individuals with a Community Sentence or Suspended Sentence Order on 31 ¹³2024^[OBS], the latest available information. Data on the general population (from the 2021 census) is provided for comparison.
- The five Bill measures all concern the cohort of offenders subject to Community Orders and Suspended Sentence Orders. Data for this offender cohort (when compared to the general population) indicates that:
- **Men are more likely to be impacted by these measures:**
 - In October 2024, men accounted for 82% of the Community Sentence and 88% of the Suspended Sentence Order caseload compared to 48% of the adult population of England and Wales.
- **Individuals aged 21-49 are likely to be disproportionately impacted by these measures:**

¹³ Data is presented for those with a layer 3 Offender Assessment System assessment, representing 81% of those on Community Orders and 84% of those on Suspended Sentence Orders.

80% of individuals with a Community Sentence and 79% of those with a Suspended Sentence Order are between the ages of 21 and 49, compared to 48% of the adult population of England and Wales.

- **Individuals with a disability are likely to be disproportionately impacted by these measures:**
- More than 60% of people with a Community Sentence or Suspended Sentence Order have an identified disability (including learning disabilities and challenges), compared to 18% of the general population.
- By virtue of the overrepresentation of men, individuals aged 21-49 and those with disabilities in the cohort, we acknowledge that these measures are more likely to affect this group. We do not, however, consider that this overrepresentation will likely result in any particular disadvantage.
- Based on the data available, amongst those sentenced to Community Sentences and Suspended Sentence Orders, there is no overrepresentation of any sexual orientation or ethnic group, and the measures will therefore not result in disproportionate impacts on this basis.

Rehabilitation activity requirement (RAR) reform

Equality Considerations

Direct discrimination

- The evidence suggests that this measure is not directly discriminatory since it will not result in anyone being treated less favourably because of any protected characteristics listed in the Equality Act 2010.

Indirect discrimination

- This measure has not been found to indirectly discriminate against any of the protected characteristics listed in the Equality Act 2010.

Advancing equality of opportunity

- Consideration has been given to advancing equality of opportunity as part of the probation requirement measure and it is believed that by allowing probation staff greater authority around decision making, they will be able to work directly with people, including those who belong to the groups listed as a protected characteristics in the Equality Act 2010, to minimise disadvantages experienced and ensure equal access to opportunities.

Discrimination arising from disability and duty to make reasonable adjustments

- Consideration has been given to discrimination arising from disability and duty to make reasonable adjustments as part of the probation requirement measure. In the 'Process evaluation of the Rehabilitation Activity Requirement (RAR) report (2025)', it was reported that operational delivery of the former measure RAR was not always suitable for people with certain types of disabilities. The new measure will allow probation staff more flexibility to design the requirement to meet specific needs, and it will act upon the recommendation in the report by ensuring that probation staff receive appropriate training to deliver it.

Fostering good relations

- We do not consider that this measure would have any negative impact on the achievement of this objective.

Removing the 12-month delivery restriction for unpaid work

Equality Considerations

Direct discrimination

- Our initial assessment is that this clause does not directly discriminate within the meaning of the Equality Act as it applies equally to all people subject to Community Orders and Suspended Sentence Orders whatever their protected characteristic.

Indirect discrimination

- This clause has not been found to indirectly discriminate against any of the protected characteristics listed in the Equality Act 2010.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of people who share a particular characteristic, where those needs are different from the need of those who do not share that particular characteristic.

Discrimination arising from disability and duty to make reasonable adjustments

- Our assessment is that the Bill measures are not likely to result in any discrimination against those with disabilities. However, we recognise it is important that operational guidance continues to make reasonable adjustments for offenders with disabilities to ensure appropriate support is always given.

Fostering good relations

- We do not consider that this measure would have any negative impact on the achievement of this objective.

Community Sentences Progression Scheme

Equality Considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- The Department's assessment is that the measure is not directly discriminatory within the meaning of the Equality Act 2010. This is because the measure will apply to all eligible community orders and suspended sentence orders, with the exception of cases subject to oversight from an Intensive Supervision Court (ISC). Probation practitioners will be assessing whether a sentence plan is completed and an order should be terminated based on factors like completion of court-ordered requirements, ongoing risk level and engagement with probation and their sentence – i.e. by way of objective conditions.
- We do not consider that excluding ISC cases would lead to any direct discrimination. Selection for ISC is not based on protected characteristics and any individual included in an ISC cohort can still have their order ended early through the ISC process.
- We do not therefore consider that the introduction of a community sentences progression scheme will result in any adult being directly discriminated against through being treated less favourably because of any protected characteristic.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- The Department's assessment is that these measures are not indirectly discriminatory to a specific group. We have considered the impacts of the measures below including the indirect discrimination which may be incurred due to early termination of orders.
- As there is a level of professional judgment for probation staff in determining whether a sentence plan is completed, there may be potential for unconscious bias. However, this is currently the approach for assessing whether and how a sentence plan should be completed and what level and amount of supervision is needed to complete sentence plan objectives for those on probation and so we do not consider that these measures will introduce any further bias into that process. Probation Practitioners have risk assessment tools to enable them to make risk-based decisions, and the decision is not reliant on one single person.

Probation staff also undertake unconscious bias training on a regular basis (every 3 years).

- Based on the data above and in applying the changes in the same way to all eligible orders, this shows that proportionately more individuals included will be men, individuals aged 21-49, and those with a disability, and so will be disproportionately affected by early termination of orders due to their general over-representation in community sentencing. The proposed change is intended to have a positive effect on such cohorts who may have their orders terminated earlier due to earlier completion of sentence plan objectives and orders will not terminate while objectives remain outstanding.
- Offenders with substance misuse issues, female offenders and those with mental health needs will be overrepresented in the Intensive Supervision Court programme, compared to other offenders on community sentences and compared to the remainder of the offender population who will not have access to the programme. However, we do not anticipate that either group will be particularly disadvantaged as a result of being included or excluded from the community sentences progression scheme as both groups are still able to have their supervision ended early. Even if it were established that in some cases a particular disadvantage for offenders with certain protected characteristics may exist, exclusion of ISC cases from the community sentences progression scheme is a proportionate approach to our legitimate aim of supporting effective rehabilitation and reducing reoffending.
- Overall, therefore, in relation to indirect discrimination, we do not consider that the proposals are likely to result in any offenders with protected characteristics suffering a particular disadvantage when compared to someone who does not share the protected characteristic.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to have due regard to the need to advance equality of opportunity by meeting the needs of offenders who share a protected characteristic, where those needs are different from the needs of those who do not share that particular characteristic. Due to the over-representation of offenders with protected characteristics indicated in the evidence section above, this may impact opportunities for those who are no longer receiving probation support as result of their order ending earlier. However, the proposals are considered likely to have a positive impact on advancing equality of opportunity. This is because the effect on such cohorts following early termination of their orders is intended to be that they will have had earlier completion of sentence plan objectives. Orders will not be terminated early while objectives remain outstanding. Having orders terminated early should provide an improved opportunity to progress in

the community and therefore the Department assesses that this will advance equality of opportunity for those offenders.

Discrimination arising from disability and duty to make reasonable adjustments

- As previously outlined, the introduction of automatic termination of orders based on completion of the sentence plan may disproportionately impact some cohorts but is not considered likely to result in disadvantage. Courts should already take disability into account when sentencing. To prevent discrimination, sentence plan obligations and objectives could be reasonably adjusted for those individuals who require it.

Fostering good relations

- Consideration has been given to the objective of fostering good relations. The change is intended to support effective rehabilitation and ensure the CJS is on a sustainable footing that will command public confidence.

Unpaid work (UPW) hours reduction

Equality Considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our initial assessment is that the UPW hours reduction scheme proposal does not directly discriminate within the meaning of the Equality Act as they apply equally to all people subject to UPW whatever their protected characteristic.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- It is not believed that the provisions in the Bill will result in indirect discrimination, as they will be applied in the same way to all individuals in scope. We anticipate some groups will be comparatively less likely to experience the impact of the proposed incentives measures. Our assessment is that this measure is a proportionate means of achieving the legitimate policy aim of incentivising compliance with UPW requirements.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to have due regard to the need to advance equality of opportunity by meeting the needs of offenders who share a protected characteristic, where those needs are different from the needs of those who do not share that particular characteristic. Due to the overrepresentation of offenders with protected characteristics indicated in the evidence section above, the proposals are considered likely to have a positive impact on advancing equality of opportunity, provided that protected characteristics are accommodated for to enable compliance. This is because the likely effect on such cohorts means they will be overrepresented in those eligible to receive an UPW reduction.

Discrimination arising from disability and duty to make reasonable adjustments

- Our assessment is that the Bill measures are not likely to result in any discrimination against those with disabilities. However, we recognise it is important that operational guidance continues to make reasonable adjustments for offenders with disabilities to ensure appropriate support is always given.

Fostering good relations

- We do not consider that the UPW incentives measure would have any negative impact on the achievement of this objective.

Publishing the names and photographs of offenders subject to an unpaid work requirement

Policy Summary

- An unpaid work requirement is principally imposed as part of a community order (CO) or suspended sentence order (SSO). It is one of the of requirements that can be imposed by the court as part of a CO or SSO on a person aged 18 or over who is convicted of an offence.
- This measure will increase the visibility of unpaid work and those subject to this requirement, demonstrating to the public that justice is being delivered in communities and act as a deterrence for crime.

Equality Considerations

Direct discrimination

- Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic.
- Our assessment is that this measure does not directly discriminate people with protected characteristics defined and listed in the Equality Act 2010. This is because the measure will apply to all individuals (subject to exclusions for vulnerabilities) who are subject to an unpaid work requirement. Probation practitioners will make an assessment of eligibility in respect of certain criteria which will not be dependent on protected characteristics.

Indirect discrimination

- Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic.
- Our assessment is that publication of the name and photograph of someone subject to an unpaid work requirement should not cause particular disadvantage to any person due to their protected characteristics.
- There may be potential for unconscious bias. However, as probation practitioners will be assessing eligibility against a set of criteria that will be set out in statute, there will be protection from unconscious bias. Probation staff will also have recall to operational guidance and application of this guidance is monitored. Probation staff undertake unconscious bias training on a regular basis (every 3 years).

Discrimination arising from disability and duty to make reasonable adjustments

- As above this measure will apply equally to all individuals, unless they are subject to certain exemption criteria. Our assessment is that publishing the names and photographs of individuals subject to an unpaid work requirement is unlikely to result in any discrimination against those with disabilities. Probation will continue to follow operational guidance and make reasonable adjustments to deliver their services to those with disabilities by liaising with medical practitioners if required.

Advancing equality of opportunity

- Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of affected offenders where those needs are different from the needs of those who do not share that protected characteristic.
- By applying the measure to all offenders, all the groups listed in the protected characteristics in the Equality Act 2010 are equally eligible, unless the individual falls within the exemption criteria.
- A positive impact on communities will be an improved perception that justice is being delivered in communities.

Fostering good relations

- We do not consider that these proposals would have any significant impact on the achievement of this objective.

5.Foreign criminals

Early removal scheme

Policy Summary

- The Early removal scheme (ERS), under provisions in sections 260 and 261 of the Criminal Justice Act 2003, allows for determinate sentenced prisoners liable for removal from the UK to be removed from prison before the end of the custodial part of their sentence for the purpose of immediate deportation. Terrorist offenders are excluded from removal under ERS. Currently they can be removed up to 18 months before the earliest release point of their sentence (subject to having served half their requisite custodial element). Once removed they are not subject to further imprisonment, but they cannot legally return to the UK. If they do, they will be liable to serve the rest of their sentence from the point they were deported.
- The Sentencing Bill amends section 260 of the Criminal Justice Act 2003 to remove the requirement that an offender serve a minimum pre-removal custodial period and provides that there will be no maximum removal period before an eligible offender can be removed. This means that a foreign national offender (FNO) to whom this section applies can be removed from prison for the purposes of immediate deportation any time after sentencing.
- The policy is that there should be no minimum pre-removal custodial period and no maximum removal period for ERS. This would mean that if someone is eligible for ERS, they can be removed from prison at any point after sentencing. FNOs who receive Suspended Sentence Orders will continue to be considered for deportation.
- Changes are being made ahead of the Bill coming into force to reduce the custodial time that has to be served before removal and to increase the window of removal. This change is by statutory instrument and subject to the affirmative process but if passed in Parliament is due to commence on 23 September 2025.

Equality considerations

Direct discrimination

- We do not envisage the ERS will directly discriminate FNOs as it does not treat FNOs less favourably on account of their protected characteristics. The measure will apply to all FNOs liable to removal from the UK, except those statutorily excluded because they have been convicted of in the case of

terrorist or terrorist connected offence. The different treatment is based on liability to removal from the UK and not nationality or immigration status.

Indirect discrimination

- Data of sentenced prisoners in the prison population with a full Offender Assessment System assessment on 31 October 2024 (full data available at Annex C) has been used against census data to assess the difference in characteristics of those groups.
- Data of sentenced offenders is used here as a proxy for FNOs serving for similar sentences, due to availability of data.
- This data shows that:
 - **Men are more likely to be impacted by these measures:** In March 2025, men accounted for 96% of all sentenced prisoners compared to 48% of the adult population of England and Wales².
 - **Individuals aged 25-49 are likely to be disproportionately impacted by these measures:** 69% of individuals of sentenced prisoners are between the ages of 25 and 49, compared to 41% of the adult population of England and Wales.
 - **Individuals from Black or mixed ethnic backgrounds could be more likely to be disproportionately impacted by these measures:** 12% of sentenced prisoners are from Black backgrounds, compared to 4% of the adult population of England and Wales. 5% of sentenced prisoners are from mixed backgrounds, compared to 2% of the adult population of England and Wales. However, the ethnic breakdown of FNOs in prison better reflects the general adult population and mitigate this impact somewhat.
 - **Individuals with a disability are likely to be disproportionately impacted by these measures:** 39% of sentenced prisoners have an identified disability (including learning disabilities and challenges), compared to 18% of the general population.
- By virtue of the overrepresentation of men, individuals aged 25-49 and those with disabilities in the cohort, we acknowledge that measures affecting the prison population are more likely to affect these groups.

- While prisoners with black or ethnic backgrounds are over-represented in the prison system, the ethnic breakdown of the FNO population in prison may be broadly reflective to the adult population in England and Wales. Multiple countries within the top 20 FNO nationalities in prison are black or mixed ethnic background majority (Sudanese, Somalian, Nigerian). However, within the top 5 FNO nationalities are Albanian, Polish, Irish and Romanian FNOs – all majority white ethnicity countries.
- We do not, however, consider that any overrepresentation will likely result in any disadvantage, as the measures will apply equally to all FNOs regardless of gender, age, disability, sexual orientation, ethnicity, or other protected characteristic.
- Even if the ERS could be seen to cause particular disadvantage to FNOs with protected characteristics we believe the policy is a proportionate means to achieve our legitimate aim of removing FNOs sooner by removing the requirement that they serve any time in prison in England and Wales before they can be removed for the purpose of deportation.
- UK nationals or FNOs who are not liable for deportation cannot be removed under this provision. The differential treatment is based on liability to removal from the UK and not nationality or immigration status. An FNO may be liable for removal if they receive a custodial sentence of 12 months or more – this triggers automatic deportation via the UK Borders Act 2007. Via the Immigration Act 1971, the Secretary of State may also use a discretionary power to remove an FNO if it is conducive to the public good (even if the FNO has received a sentence less than 12 months or the offence is non-custodial).

Harassment and victimisation

- We do not consider there to be a risk of harassment or victimisation as a result of the ERS.

Advancing equality of opportunity

- Consideration has been given to how the ERS impacts on the duty to advance equality of opportunity by meeting the needs of FNOs who share a particular characteristic, where those needs are different from the needs of those who do not share that particular characteristic. We do not envisage this policy will impact on this objective.

Discrimination arising from disability and duty to make reasonable adjustments

- The ERS may remove FNOs with a disability if they are liable to deportation. However, we do not envisage the ERS will discriminate disabled individuals and the duty to make reasonable adjustments.

Fostering good relations

- Consideration has also been given to the objective of fostering good relations between persons who share a relevant protected characteristic and persons who do not. We consider that this objective is unlikely to be impacted by the ERS.

Deportation of foreign national offenders

Policy Summary

A clause has been included in the Sentencing Bill to act as a placeholder for a substantive clause which will allow the Secretary of State to make provision about the deportation of foreign criminals and about the processing of information about foreign criminals for the purposes of the exercise of functions under the Immigration Acts. We intend to bring forward amendments to the Bill at Committee Stage to strengthen the Government's ability to take enforcement action against Foreign Criminals.

Equality Considerations

Direct discrimination

- It is not expected that the proposed policy changes on the deportation of foreign criminals including the processing of information about foreign criminals will subject any person to less favourable treatment than any other person.

Indirect discrimination

- There is the potential for the policy changes to have a disproportionate impact on persons with some protected characteristics. This is not due to the policy changes themselves but the characteristics of the people that might be affected by the changes, i.e. foreign criminals. The Home Office does not keep data on the protected characteristics of foreign criminals, so Ministry of Justice foreign prisoner data has been used as a proxy.

Age

- It is anticipated that there may be a disproportionate impact based on age. This is because the prison population is significantly younger than the public as a whole. Annual prison population statistics to 31 March 2025 show that total population of prisoners, men and women, was 87,869 of which adults were 84,515; 3,090 were 18-20 years old and 264 were 15-17-year-olds (source: [Offender management statistics quarterly: October to December 2024 - GOV.UK](#)). As such there is the potential for policy changes in relation to foreign criminals to disproportionately affect younger people.

Race (including colour, nationality, or ethnic or national origins)

- It is anticipated that the policy changes will apply equally to all foreign criminals regardless of colour, nationality or ethnic or national origins. There is, however, the possibility of a disproportionate impact on the basis of nationality. Statistical data is published in relation to offenders' ethnicity but not nationality. As a proxy measure, there is a disproportionate presence of certain nationalities, for example Albanian and Polish nationals, in the prison population compared to

the public as a whole ([Offender management statistics quarterly: October to December 2024 - GOV.UK](#)). As such the policy changes may disproportionately affect nationals from some countries.

Gender / sex

- No direct impacts have been identified on the grounds of gender or sex, however by far the majority of offenders in prison in the UK are males. This is particularly true in relation to the most serious offence types and sentences, though patterns by sex vary between individual offences. On 31 March 2025, 96% of all prisoners were male and 4% were female. The total prison population at this point was 87,8690, made up of 84,234 males and 3,635 females. The proportion of this representation has remained stable over time. 96% of the foreign nation prison population was male and 4% were female. The total FNO prison population was 10,838, made up of 10,456 males and 382 females (source: Prison Population: 31 March 2025 [Offender management statistics quarterly: October to December 2024 - GOV.UK](#)). This indicates that policy changes in relation to foreign criminals may have a disproportionate effect on men.

Other protected characteristics

- No disproportionate impacts have been identified for any other protected characteristic.
- However, all of the manifestations of potential identified above must be considered in the context that policy changes do not exacerbate any indirect discrimination that already exists under current policy and legislation. The current policy and legislation relating to deportation affects the same cohort of people that the policy changes would affect, as the disproportionate impacts on certain characteristics are not because of deportation policies but rather the characteristics of the foreign criminal population. As such, although there is potential for a disproportionate impact on some groups under the policy changes, it is not new, nor creating any indirect discrimination that doesn't already exist.
- Furthermore, it is anticipated that the policy changes will be proportionate and in pursuit of a legitimate aim. Changes in the way foreign criminals will be sentenced will mean that fewer will be caught by the duty to deport set out in the UK Borders Act 2007. As such, policy changes are needed to keep deportation consideration in line with the changes to criminal sentencing, where more suspended sentences will be given, and to ensure the efficient deportation of foreign criminals in pursuance of a robust immigration regime with effective controls. Accordingly, the disproportionate impacts mentioned above do not amount to indirect discrimination.

Advancing equality of opportunity

- There is no evidence to suggest the policy changes will deliver a worse outcome for those with a protected characteristic as compared to others. Nor has any action been identified which should be taken to meet a particular need or reduce an inequality faced by people who share a protected characteristic.

Discrimination arising from disability and duty to make reasonable adjustments

- We do not consider that these proposals give rise to any risk of direct discrimination. Disabled or vulnerable people may face greater difficulties articulating their Article 8 grounds during proceedings when offending is weighed up against private and family life and it is noted that such indirect discrimination already exists within the deportation framework. It is the HO policy position that the changes are a proportionate means of achieving a legitimate aim: to ensure the efficient deportation of foreign criminals in pursuance of a robust immigration regime with effective controls. Therefore, any indirect discrimination could be justified on that basis.

Fostering good relations

- We consider that, overall, the policy changes are proportionate and do not adversely affect good relations between people who share certain protected characteristics and those who do not.

Annex A: Characteristics of adults with community sentences and suspended sentence orders¹⁴ and all adults¹⁵

	Community sentence caseload	Suspended sentence order caseload	All adults (age 18 or over)
<u>Sex</u>			
Male	82%	88%	48%
Female	18%	12%	52%
<u>Age band</u>			
18 - 20	5%	5%	4%
21 - 24	10%	12%	6%
25 - 29	14%	15%	8%
30 - 39	34%	32%	17%
40 - 49	22%	20%	16%
50 - 59	11%	11%	17%
60 and over	4%	5%	31%
<u>Ethnicity</u>			
Asian/Asian British	5%	7%	9%

¹⁴ Of those with a community sentence/suspended sentence order with a full Offender Assessment System assessment on 31 October 2024

¹⁵ 2021 Census data, England and Wales, those age 18 and over:

Sex <https://www.ons.gov.uk/datasets/RM121/editions/2021/versions/1>

Age <https://www.ons.gov.uk/datasets/TS007/editions/2021/versions/1>

Ethnicity <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/age-groups/latest/>

Sexual orientation [Sexual orientation, England and Wales - Office for National Statistics](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/bulletins/disabilityenglandandwales/census2021)

Disability <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/bulletins/disabilityenglandandwales/census2021>

Black/Black British	6%	7%	4%
Mixed	4%	5%	2%
Not known	2%	2%	-
Other	2%	2%	2%
White	81%	78%	84%
<u>Disability status¹⁶</u>			
Disabled	64%	61%	18%
Not disabled	36%	39%	82%
<u>Sexual orientation</u>			
Straight/Heterosexual	91%	92%	89%
Gay or lesbian	2%	2%	2%
Bisexual	2%	2%	1%
Other	0%	0%	0%
Not disclosed	4%	4%	7%
Unknown	1%	0%	-

¹⁶ Disability data for those with community orders or suspended sentence orders is not directly comparable to the general population due to differences in definition, and self-declaration. Additionally, the general population figures for disability status cover the whole population (including those under 18).

Annex B: Characteristics of adults sentenced (2024)¹⁷ and all adults (2021)¹⁸

	All sentences	All immediate custodial sentences	Short (12m or less) custodial sentences	2-3-year custodial sentences	General adult population (age 18 and over)
<u>Sex*</u>					
Male	79%	93%	91%	95%	48%
Female	21%	7%	9%	5%	52%
<u>Age*</u>					
18 – 20	5%	4%	4%	7%	4%
21 - 24	10%	10%	8%	14%	6%
25 - 29	14%	15%	15%	17%	8%
30 – 39	31%	37%	40%	32%	17%
40 – 49	21%	22%	25%	18%	16%
50 – 59	12%	8%	8%	7%	17%
60 and over	6%	3%	2%	3%	31%
<u>Ethnicity*</u>					
Asian/Asian British	7%	6%	4%	6%	9%
Black/Black British	6%	7%	6%	9%	4%

¹⁷ MOJ (2025), Outcomes by Offence Tool, [Criminal Justice System statistics quarterly: December 2024 - GOV.UK](https://www.criminaljustice.gov.uk/statistics/quarterly-december-2024) Children, companies and those of unknown age are excluded from figures.

¹⁸ 2021 Census data, England and Wales, those age 18 and over:

Sex: <https://www.ons.gov.uk/datasets/RM121/editions/2021/versions/1>

Age: <https://www.ons.gov.uk/datasets/TS007/editions/2021/versions/1>

Ethnicity: <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/age-groups/latest/>

Mixed	3%	3%	3%	4%	2%
Other	1%	2%	1%	2%	2%
White	83%	83%	86%	79%	83%

*Where known

Annex C: Characteristics of adult sentenced prisoners¹⁹ and all adults²⁰

	Total sentenced prisoners	All adults (age 18 or over)
<u>Sex</u>		
Male	96%	48%
Female	4%	52%
<u>Age band</u>		
18 - 20	2%	4%
21 - 24	8%	6%
25 - 29	14%	8%
30 - 39	33%	17%
40 - 49	22%	16%
50-59	11%	17%
60 - 69	6%	14%
70 and over	3%	17%
<u>Ethnicity</u>		
Asian/Asian British		9%
Black/Black British	7%	4%
Mixed	12%	2%
Not known	5%	-
Other	0%	2%
White	1%	83%
<u>Disability status³</u>		
Disabled	39%	18%

¹⁹ Of sentenced prisoners in the prison population on 31 March 2025 (80% of the total prison population). Based on "Prison population: 31 March 2025" at <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2024>

²⁰ 2021 Census data, England and Wales, those age 18 and over:

Sex <https://www.ons.gov.uk/datasets/RM121/editions/2021/versions/1>

Age <https://www.ons.gov.uk/datasets/TS007/editions/2021/versions/1>

Ethnicity <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/age-groups/latest/>

Not disabled	61%	82%
<u>Sexual orientation</u>		
Straight/Heterosexual	67%	89%
Gay or lesbian	1%	2%
Bisexual	1%	1%
Other	0%	0%
Not disclosed	13%	7%
Unknown	17%	-

Annex D: Table to show characteristics of adults on licence²¹ and all adults²²

	Overall licence caseload	Licence caseload with a drug misuse need	Licence caseload without a drug misuse need	All adults (age 18 or over)
<u>Sex</u>				
Male	94%	92%	95%	48%
Female	6%	8%	5%	52%
<u>Age band</u>				
18 - 20	2%	2%	1%	4%
21 - 24	7%	9%	6%	6%
25 - 29	13%	16%	11%	8%
30 - 39	33%	37%	29%	17%
40 - 49	23%	24%	22%	16%
50 - 59	13%	10%	16%	17%
60 and over	9%	2%	15%	31%
<u>Ethnicity</u>				
Asian/Asian British	8%	6%	9%	9%
Black/Black British	11%	11%	11%	4%
Mixed	5%	6%	4%	2%
Not known	2%	1%	3%	-
Other	2%	2%	3%	2%
White	71%	74%	70%	83%
<u>Disability status⁶</u>				
Disabled	48%	58%	41%	18%
Not disabled	52%	42%	59%	82%

²¹ Of those on licence with a full Offender Assessment System assessment on 31 October 2024 (94% of the licence caseload)

²² 2021 census data, England and Wales, those age 18 and over:

Sex <https://www.ons.gov.uk/datasets/RM121/editions/2021/versions/1>

Age <https://www.ons.gov.uk/datasets/TS007/editions/2021/versions/1>

Ethnicity <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/age-groups/latest/>

Sexual orientation [Sexual orientation, England and Wales - Office for National Statistics](#)

Disability

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/bulletins/disabilityenglandandwales/census2021>

<u>Sexual orientation</u>				
Straight/Heterosexual	84%	89%	81%	89%
Gay or lesbian	1%	1%	1%	2%
Bisexual	1%	1%	1%	1%
Other	0%	0%	0%	0%
Not disclosed	12%	8%	14%	7%
Unknown	2%	1%	2%	-

Annex E: Table to show characteristics of adults remanded (2024)²³ and all adults (2021)²⁴

	All adults remanded	Adults remanded who received a non-custodial or short (12m or less) custodial sentence	General adult population (age 18 and over)
<u>Sex*</u>			
Male	93%	91%	48%
Female	7%	9%	52%
<u>Age*</u>			
18 – 20	6%	5%	4%
21 - 24	11%	9%	6%
25 - 29	16%	16%	8%
30 – 39	36%	37%	17%
40 – 49	21%	22%	16%
50 – 59	8%	8%	17%
60 and over	3%	2%	31%
<u>Ethnicity*</u>			
Asian/Asian British	7%	5%	9%
Black/Black British	9%	8%	4%

²³ MOJ (2025), Remands data tool 2017 to 2024, [Criminal Justice System statistics quarterly: December 2024 - GOV.UK](#) Children, companies and those of unknown age are excluded from figures.

²⁴ 2021 Census data, England and Wales, those age 18 and over:

Sex <https://www.ons.gov.uk/datasets/RM121/editions/2021/versions/1>

Age <https://www.ons.gov.uk/datasets/TS007/editions/2021/versions/1>

Ethnicity <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/age-groups/latest/>

Mixed	4%	4%	2%
Other	2%	2%	2%
White	79%	81%	83%

*Where known