

<b>Title:</b> Sentencing Bill - Changes to Home Detention Curfew  <b>IA No:</b> MoJ069/2023  <b>RPC Reference No:</b> N/A  <b>Lead department or agency:</b> Ministry of Justice (MoJ)  <b>Other departments or agencies:</b> N/A	Impact Assessment (IA)
	<b>Date:</b> 14/11/2023
	<b>Stage:</b> Legislation
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary Legislation
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<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Not applicable
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Cost of Preferred (or more likely) Option			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year N/A	Business Impact Target Status
-£80.0m	N/A	N/A	Not a regulatory provision

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

The purpose of the Home Detention Curfew (HDC) scheme is to effectively manage the transition of offenders from custody back into the community. The scheme enables prisoners to be released from prison early, while remaining subject to significant restrictions on their liberty. Currently prisoners serving sentences of 4 years or more or with certain previous recalls/returns to custody (under long-repealed provisions, a prisoner could be returned to prison after committing a further imprisonable offence between release from custody and the end of their sentence) are excluded. We are now seeking to extend the benefits of the scheme to these offenders, giving them more chance to get back into work and turn their lives around. The current, strict eligibility criteria and assessment processes will remain in place, as will the robust monitoring and enforcement regime. Government intervention is required as these changes require a change in the law.

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

The associated policy objective is to aid resettlement of offenders. HDC has been running since 1999 and enables eligible, suitable individuals to transition from custody back into the community while remaining subject to significant restrictions on their liberty. It is right that we look to make best use of this scheme, taking advantage of advances in the use of electronic monitoring. Additionally, the number of prisoners serving sentences of under four years has almost halved since HDC was introduced, as sentences have grown longer. The number of those serving HDC statutorily eligible sentences of less than 4 years has decreased significantly over recent years - from 44,697 prisoners in 2017 to 29,791 in 2022, reflecting the change in offender mix in prison. To keep pace with these changes, sentence length alone should no longer determine whether someone is eligible for HDC. There will still be many offenders that are presumed unsuitable for HDC. This change though will also help ease pressure on the prison population thereby helping limit overcrowding. Further, this measure will enable better rehabilitation in the community.

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

**Option 0:** Do nothing.

**Option 1:** Extend the use of Home Detention Curfew to those sentenced to 4 or more years, replace the lifetime ban for previous curfew breach recalls with one of two years, and repeal the ban for those who historically committed an offence during what used

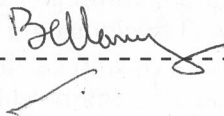
to be called the 'at risk' period of their sentence. An "at risk" return was where, under long-repealed provisions formally under the Powers of Criminal Courts (Sentencing) Act 2000, courts used to have a power to return a prisoner to prison in addition to imposing a new sentence for a further offence committed between release from custody and the end of their sentence. (Under the Criminal Justice Act 1991 Act, licences used to expire at the three-quarters point of the sentence, following which there was no power to recall, but during the final quarter of the sentence – the 'at risk' period' – courts could impose a return to prison if a further offence was committed. Such a period of 'return' made the offender ineligible for HDC on any future sentence but it is no longer appropriate to maintain that ban.)

Option 1 is preferred as it best meets the policy objectives.

Is this measure likely to impact on international trade and investment? N/A					
Are any of these organisations in scope?		Micro No	Small No	Medium No	Large No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: N/A	Non-traded: N/A	
Will the policy be reviewed? It will not be reviewed. If applicable, set review date: N/A					

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

Signed by the responsible Minister:

 Date: 14.11.23

## Summary: Analysis & Evidence

**Description:** Extend the use of Home Detention Curfew to those sentenced to 4 or more years, replace the lifetime ban with one of two years, and repeal the ban for those who have committed an offence during the 'at risk' point of their sentence.

### FULL ECONOMIC ASSESSMENT

Price Base Year 2023/24	PV Base Year 2024/25	Time Period 10-years	Net Benefit (Present Value (PV)) (£m)		
			Low: -£67.1m	High: -£86.7m	Best Estimate: -£80.0m

COSTS (£m)	Total Transition (Constant Price)		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	£8.9m	£75.3m
High	N/A	N/A	£11.4m	£97.3m
Best Estimate	N/A	N/A	£10.6m	£89.8m

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

This option is estimated, in MoJ's Best Estimate scenario, to increase the HDC caseload by 850 when it reaches steady state. Any increase in the HDC caseload will lead to an increase in the Probation and Electronic Monitoring (EM) caseloads, as well as increasing the demand for beds from Community Accommodation Service (CAS-2) by 200 places. MoJ's Best Estimate scenario estimate of the annual key monetised costs of the increase in the HDC caseload are; additional costs of c.£7.1m per annum to Probation/EM Services and c.£3.4m per annum to CAS-2 Services. The net present cost over the appraisal period is estimated to be £89.8m for the best estimate option.

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

A proportion of people on licence break their conditions and will be recalled. Increasing the cohort of offenders eligible to be released on HDC is expected to lead to more offenders being assessed for HDC and more breaching their licence conditions. They will be more swiftly detected by the tag if it relates to a breach of curfew or entering an area they are not permitted to be, leading to more recalls to custody. This would create additional costs to police (for contributing to assessments, arrest and return to custody) and HMPPS (for processing the recalls).

<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price)</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>	<b>Total Benefit (Present Value)</b>
<b>Low</b>	N/A	N/A	£1.0m	<b>£8.2m</b>
<b>High</b>	N/A	N/A	£1.2m	<b>£10.6m</b>
<b>Best Estimate</b>	N/A	N/A	£1.1m	<b>£9.8m</b>

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

HMPPS is expected to benefit from a decrease in prison population demand of 850 places equivalent to the increase in the HDC caseload. Only marginal saving benefits have been calculated for HMPPS, as the reduction in demand is not expected to lead to a reduction in the size of the prison estate. However, the reduction in demand should improve living conditions in prison, the stringency of the implemented regime, and the ratio of staff to prisoners.

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

Earlier resettlement could limit the negative effects of custody and have a positive impact for offenders and their families; for example, earlier re-employment will allow offenders to support themselves and their families earlier in their sentence. A modest reduction in prison population may mean staff are better placed to work with prisoners on their rehabilitation.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5%
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There is uncertainty in what the release and recall rates will be for the newly eligible cohort. A range of scenarios have been modelled varying these factors. This option will result in a large number of offenders becoming eligible upon implementation. It has been assumed that staff resources and CAS-2 accommodation will be sufficient to meet the newly increased demand, however, this may delay release for some offenders. A 20% optimism bias has been built into all estimated financial impacts (cost and benefits), as is standard practice.

**BUSINESS ASSESSMENT (Option 1)**

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

**Evidence Base**

**A. Background**

1. Current release provisions set out in part 2 of the Criminal Justice Act 2003 (the 2003 Act), require that most offenders serving standard determinate sentences (SDS), and all who are serving an SDS of less than four years in length, must be released at the halfway point of their sentence (the 'conditional release date').
2. The Home Detention Curfew (HDC) scheme, which became available in 1999 following the passing of Crime and Disorder Act 1998, enables certain offenders to be released ahead of this halfway point. The policy objective of HDC is to enable suitable and eligible offenders to be released early from prison, in order to have a transition period after leaving custody and

beginning supervision in the community on licence. During this transition period, they are subject to restrictions that limit their movements and activity but can begin reintegrating into the community sooner.

3. Under the HDC scheme, offenders must be subject to an electronically monitored curfew at their home address. Since April 2019, they may also be subject to electronic monitoring of their location beyond the home address where this is considered necessary and proportionate. Since 2021 in Wales and 2022 in England, alcohol monitoring tags have been available to help enforce rules preventing offenders from drinking alcohol if this was something that played a role in their offending history.
4. Evidence suggests that the monitoring may help with rehabilitation. For example, research published in 2018 into the experience of being electronically monitored indicates that, for some of those subject to electronic monitoring, the period of electronic monitoring can be an opportunity to break habits and limit opportunities to commit crime, enhance chances for employment and training, and help to develop or maintain positive relationships. Each of these can be important in helping offenders desist from crime in the longer-term.
5. Section 246 of the 2003 Act gives the Secretary of State a discretionary power to release offenders on licence before they have served the requisite custodial period where certain eligibility requirements are met and subject to an electronically monitored curfew. Those released on HDC must serve at least a quarter of their sentence and a minimum of 28 days before release and certain offenders are excluded from the scheme under section 246(4) of the 2003 Act, including terrorist offenders and registered sex offenders. In addition:
  - Section 246(4)(aa) excludes prisoners currently serving sentences of four years or more for any offence.
  - Sections 246(4)(g) and 246(4)(ga) exclude prisoners who have at any time previously been recalled to prison for breaching the curfew conditions attached to HDC.
  - Section 246(4)(ha) excludes prisoners who have at any time previously been returned to custody by the court (under either Section 40 of the Criminal Justice Act 1991 (the 1991 Act) or Section 116 of the Powers of Criminal Courts (Sentencing) Act 2000) for committing an imprisonable offence during the “at-risk” period of a previous sentence. The “at risk” period was that part of a sentence imposed under the 1991 Act after the licence expired but before the sentence ended, when the offender was “at risk” of being returned to custody by the court but not liable to administrative recall. A prisoner could be returned to prison after committing a further imprisonable offence between release from custody and the end of their sentence. Prison sentences have not included an “at risk” period since the relevant provisions were repealed in 2012.
6. Other offenders are, as a matter of policy, presumed to be unsuitable for the scheme in the absence of exceptional circumstances. Offenders presumed to be unsuitable for release on HDC include those serving a sentence for cruelty to children and homicide. In June 2023, we made changes to this list of offences to include stalking and other offences often related to domestic abuse. The current list is set out in the HDC Policy Framework. No change is being made to this list or any of the other HDC criteria.
7. In June 2023, the maximum curfew period on HDC was increased from 135 days (4.5 months) to 180 days (6 months) providing further opportunities for offenders to prepare for the transition from custody to supervision under licence in the community, while subject to strict monitoring conditions.

8. This Impact Assessment (IA) considers changes to HDC eligibility to bring it up to date with how the justice system has changed since 1999 when standard determinate sentences were short (less than four years) or long (4 years or more). The number of prisoners serving sentences of less than four years has almost halved since HDC was introduced, sentences have grown longer, and sentence length alone should no longer determine whether someone is eligible to be considered for HDC.
9. At the same time, we are changing the legislation so that offenders who have been recalled recently on HDC, in the past two years, cannot access the scheme. This will replace the current lifetime ban which has become increasingly disproportionate given how long the scheme has been running. Primary legislation is required to make these changes as these restrictions on eligibility are set out in statute and cannot therefore be amended by changes to operational policy and there is no power in the 2003 Act to make these amendments by order.

## **Rationale and Policy Objectives**

### **Rationale**

10. The conventional economic approach to Government intervention is based on efficiency and equity arguments. The Government may consider intervening if there are failures in the way markets operate (e.g. monopolies overcharging consumers) or there are failures with existing Government interventions (e.g. waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and re-distributional reasons (e.g. to reallocate goods and services to groups in society in more need).
11. The rationale for intervention in this instance is equity: to extend the resettlement benefits of HDC to suitable offenders currently excluded solely due to sentence length or old recalls to custody. This will give them more chance to get back into work and turn their lives around. The preferred option will also deliver efficiency by helping to manage prison capacity while avoiding the use of inefficient solutions such as Operation Safeguard. Government intervention is required as these changes require a change in the law.

### **Policy Objectives**

12. The policy objective is to extend the resettlement benefits of HDC to a selection of those currently excluded by legislation, namely to those sentenced to 4 years or more, those with a previous HDC curfew breach recall that took place more than two years before the current sentence, and those previously returned to custody (under long repealed provisions) for committing an offence during the 'at risk' point of their sentence. This will enable them to better manage their release from custody and prepare for supervision on licence in the community. An additional objective is, by reducing demand for prison places, to reduce crowding and improve prison conditions for both offenders and staff which may improve engagement in rehabilitative activities.

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

13. The following groups will be most affected by the options in this IA:
  - Offenders eligible for the HDC scheme (and their families).
  - HM Prison and Probation Services (HMPPS).
  - Electronic Monitoring Services (EMS).

- Community Accommodation Service (CAS-2) which provides accommodation to offenders on bail and after release from prison if they lack their own housing.
- Police services.
- Victims of those released from custody early on HDC.

## **Description of options considered**

14. To meet the policy objectives, 2 options are assessed within this IA.

15. **Option 0:** Do nothing: Under this option current legislation would continue.

16. **Option 1:** extend the use of Home Detention Curfew to those sentenced to 4 or more years, replace the lifetime ban with one of two years, and repeal the ban for those who have committed an offence during the 'at risk' point of their sentence.

17. Option 1 is the Government's preferred option.

### **Option 0:**

18. Under this option, otherwise suitable offenders would remain excluded from HDC. Therefore, this option has been rejected as it would not address the policy objectives.

### **Option 1:**

19. Under this option, we will:

- Allow prisoners serving standard determinate sentences of four years or more to be considered for HDC, provided their sentence is one where, if the offender were sentenced under current legislation they would be subject to automatic release at the halfway point of their sentence.
- Replace the lifetime ban on accessing HDC for prisoners who have been recalled to prison for breach of the HDC curfew conditions, with one that only applies where the recall to custody was still being served less than two years before the date when the current sentence was imposed; and
- Remove the ban on access to HDC for prisoners who under long-repealed provisions, were returned to prison after committing a further imprisonable offence between release from custody and the end of their sentence

20. No other changes will be made to the scheme. The current, strict eligibility criteria and assessment processes will remain in place, as will the robust monitoring and enforcement regime. HDC is discretionary, subject to risk assessment, and non-compliance is dealt with firmly, leading to immediate recall where necessary.

## **Cost and Benefit Analysis**

21. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.

22. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the proposals under consideration.

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

groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.

24. The costs and benefits under Option 1 are compared to Option 0, the counterfactual or “do nothing” scenario. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).
25. The annual costs and benefits are presented in steady state throughout this IA. This IA has an appraisal period of 10 years and a base year of 2024/25. Therefore, all cost estimates, unless stated otherwise, are annualised figures in 2023-24 prices rounded to nearest £100k. All volume estimates, unless stated otherwise, are rounded to the nearest 50 places.
26. Unless otherwise stated, a 20% optimism bias has been applied to all impacts (costs and benefits).
27. As is the normal practice in MoJ IAs, the impacts on offenders associated with upholding the sentence of the court are not included in the costs and benefits of each option.

## Method

28. There is uncertainty around the future volume of HDC caseloads under Option 1. This is due to factors including: the rate of releases onto HDC for those sentenced to 4 years and over; whether this group will be recalled at a higher rate; and inherent uncertainty concerning the size of the future prison population eligible for release onto HDC. Furthermore, there has been in recent months significant activity focussed on improving the proportion of eligible offenders who are released onto HDC. This has been increasing steadily and will inevitably plateau.
29. To reflect these uncertainties, the impacts of Option 1 are presented using 3 scenarios. The Central scenario represents MoJ’s best estimate of how we expect the HDC caseload to change following implementation. Conversely, the Low scenario represents one where the fewest number of offenders are released onto and remain on HDC whereas the High scenario represents one where the largest number of offenders are released onto and remain on HDC.
30. The details of each scenario are as follows:
31. **Low:** We assume that the newly eligible offenders are 5 percentage points less likely to be released as the current cohort of those serving between 2-4 years, and that the recent presumed unsuitable change has a higher impact. We have assumed that they are 5 percentage points more likely to be recalled to custody as those serving between 1-4 years, and that the recent change to extend HDC to 6 months has had a high impact on recall rates. A lower conversion rate of offenders being released onto HDC is used in future months, and future eligible offenders reflects the Low Scenario of internal prison projections.
32. **Central/Best:** We assume that the newly eligible offenders are 5 percentage points less likely to be released as the current cohort of those serving between 2-4 years, and that the recent presumed unsuitable change has a higher impact. We have assumed that they are 5 percentage points more likely to be recalled to custody as those serving between 1-4 years, and that the recent change to extend HDC to 6 months has had a moderate impact on recall rates. A higher conversion rate of offenders being released onto HDC is used in future months, and future eligible offenders reflects the Central Scenario of internal prison projections.
33. **High:** We assume that the newly eligible offenders are 5 percentage points less likely to be released as the current cohort of those serving between 2-4 years, and that the recent

presumed unsuitable change has a lower impact. We have assumed that they are 5 percentage points more likely to be recalled to custody as those serving between 1-4 years, and that the recent change to extend HDC to 6 months has had no impact on recall rates. A higher conversion rate of offenders being released onto HDC is used in future months, and future eligible offenders reflects the High Scenario of internal prison projections.

34. Estimates under each scenario assume all necessary preparations and resources are in place to facilitate the additional releases, so that assessments and referrals are undertaken in advance, and that the majority would be released within the first month of implementation date. If all preparations are not in place, the impact will be lesser in the short-term.

## **Costs of Option 1**

### Monetised Costs

#### *HMPPS*

35. Under the Best/Central Scenario at steady state, an estimated 850 additional offenders will be managed by probation and be electronically monitored, and an estimated 200 additional CAS-2 bed spaces will be needed.
36. Under the Low and High scenarios, the additional HDC population is estimated to vary between 750 and 950 additional offenders and between 150 and 200 additional CAS-2 bed spaces.

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

37. Under the steady state, and assuming all necessary preparations and resources are in place, it is estimated that an additional HDC population of up to 850 offenders, as the central estimate, will be under supervision in the community rather than in custody.
38. Of the total cost to HMPPS, and based on internal estimates of probation costs, the MoJ arrive at an expected additional cost for probation services (in 2023-24 prices) of £4.4m to £5.6m per annum for the Low and High scenarios, respectively<sup>[1]</sup>.
39. Based on internal estimates of electronic monitoring costs, the MoJ arrive at an expected additional cost for electronic monitoring (in 2023-24 prices) of £2.3m to £2.9m per annum for the Low and High scenarios, respectively.

#### *CAS-2*

40. Based on the current CAS-2 contract, the maximum cost of a bed space to the MoJ is £15,874 (2023/24 prices). However, care needs to be applied as this cost includes the following factors:
41. The budget has provision for adjustment payments where occupancy levels fall below 80% and therefore the price point for the contract;
42. The contract has other variability clauses that can impact upon price.
43. CAS-2 is not exclusively for HDC users as its first priority is to Bailees, but it can also house people who face a recall to custody due to the loss of suitable accommodation in the community. There remains a good level of existing demand for the service and the additional bed spaces will aim to aid where demand for CAS-2 is strongest (London).
44. Based on this, we arrive at an expected maximum additional operating cost (in 2023-24 prices) of £3.2m to £4.2m per annum for the Low and High scenarios, respectively.

## Non-Monetised Costs

### *Police services, HMPPS*

45. As this option will release additional offenders onto HDC who are serving sentences for more serious offences, there could be an increased incidence of recall due to offenders breaching their licences. This could lead to more work for the police service (for arrest and return to custody) and HMPPS staff involved in the administration of the recall process.
46. The additional offenders released on HDC will no longer be imprisoned. The release of additional offenders on HDC may increase the number of crimes inflicted on wider society.

## **Benefits of Option 1**

### Monetised Benefits

#### *HMPPS*

47. Any impacts on the prison population resulting from Option 1 will interact with other system-wide policies affecting prison capacity. It is very unlikely that the impacts of this option – around a 750-950 reduction in prison place demand across the Low/High scenarios – will lead to the closure of cells, wings or entire prisons, because the impacts will be spread out across most of prison estate.
48. As such, when considering the monetisable benefits from reductions of the prison population it is not appropriate to use the full cost per place figure in the HMPPS Annual Report and Accounts of £46,696<sup>[2]</sup> (2021/22 prices) as a saving to HMPPS as this figure is derived from the expenditure recorded directly on all prisoners divided by the average prison population over the year.
49. Instead, we use a marginal cost per place of £1,800<sup>[3]</sup>, which translates to the additional cost per year of housing an offender where their addition to the prison estate simply leads to an increase in the prison population with no effect on fixed overheads.
50. This leads to estimated annual costs avoided of £1.0m to £1.2m for the Low and High scenarios, respectively, on average over the 10 year appraisal period, with a Central estimate of £1.1m.
51. While the impact of this option will not alter short-term prison place numbers or current construction plans, it will cause a reduction in the long-term prison population and therefore a reduction in the required size and cost of the future prison estate beyond the appraisal period. Illustrative costs of this cost avoided are c.£51,000 in running costs per place and £290,000 in construction costs per place (both in 2023/24 prices).

### Non-Monetised Benefits

#### *HMPPS*

52. Option 1 may help make prisons safer places for both prisoners and staff, by delivering a modest reduction in prison population thereby enabling staff to be better placed to work with prisoners on their rehabilitation. By alleviating crowding, this option should improve factors including:
- a. Living conditions in prison – as overcrowding in prisons increases, cleanliness and other physical conditions in prison are likely to decline which might have negative effects on prison safety<sup>[4]</sup>, as well as the mental/physical health of prisoners<sup>[5]</sup>,

- b. The stringency of the implemented regime – prisons that are at full/over-capacity often choose to implement a more stringent regime in order to manage the population and therefore risk an increase in violence<sup>[6]</sup>,
- c. The ratio of staff to prisoners – having larger numbers of prisoners to supervise per officer is associated with higher rates of both inmate-inmate and inmate-staff assaults<sup>[7]</sup>. However, it has not been possible to monetise the benefits of this change.

*Offenders eligible for HDC, and their families*

53. Offenders eligible for HDC will benefit from longer periods of time to settle into their post-release phase. Earlier resettlement into the community will also mean they will be able to support themselves and their families earlier in their sentence. However, it has not been possible to monetise the benefits of this change.

**Summary**

54. The total NPSV at the end of the 10-year appraisal period for this measure is estimated to be -67.1m for the Low scenario, -£80.0m for the Best/Central scenario and -£86.7m for the High scenario.

**Risks and Assumptions**

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

**Option 1**

Assumptions	Risks / uncertainties
HDC eligible case volumes are estimated from current departmental prison population demand projections, where the Low Scenario aligns with the lowest population scenario; the Best/Central Scenario with the most-likely estimate; and the High Scenario with the highest population scenario.	Actual prison volumes may vary from departmental projections.
It is assumed that the release rate for the 4+ sentenced cohort will be 5 percentage points lower than the rate for those released on HDC serving between 2-4 years across each of the baseline Low/Central/High scenarios.	Actual release rates may vary based on the case mix of offenders being released in future months and the level of risk they present.
Current plans to improve the rate at which eligible offenders are converted to HDC releases are used to inform future release rate assumptions, where the Low Scenario assumes no increase in the release rate, and the Central/High Scenarios assume these plans are achieved.	Increases in the conversion rate may vary based on the case mix of offenders being released in future months and the level of risk they present.

<p>It is assumed that delays between the date an offender becomes eligible for release on HDC, and their actual release will remain constant at observed levels.</p>	<p>Earlier releases could be delayed due to staff availability, given the current staffing and recruitment pressures observed in probation services that are being addressed with significant financial investment and recruitment campaigns.</p> <p>Offender Managers must carry out pre-release planning with prisoners who are approaching their conditional release date. Making a large number of offenders eligible at once may mean there is less time to prepare for their release at this date, reducing the realisable impacts of the policy change.</p> <p>Increased delays could have a negative impact on the realisable benefits of this option.</p>
<p>MoJ have assumed for the scenarios that the rate of recall will be 5 percentage points higher than the rate of those who are current HDC caseload serving 1-4 year sentences; in the Low scenario MoJ assume that the recent HDC extension to 6 months maximum has had a high impact, in the Central scenario a moderate impact, and in the High scenario that it has had no impact on recall rates.</p>	<p>The new 4+ year sentenced cohort will spend longer on HDC than the current average and are serving sentences for more serious offences. Therefore, it is possible that recall rates will increase further which would reduce the prison place savings and result in additional costs to HMPPS and the police service.</p>
<p>The increase in HDC caseload from this policy will lead to avoidance of prison costs.</p>	<p>We do not expect to be able to decommission wings or whole prisons and have therefore used the marginal cost per prisoner of £1,800 (23/24 prices) to cover housing costs only.</p>
<p>Probation and electronic monitoring cost impacts based on internal economic estimates.</p>	<p>Should the mix of risk levels of offenders on HDC change, the hours of supervision required could shift resulting in variation on overall costs.</p>
<p>All impacts assume all necessary preparations and resources are in place to facilitate the additional releases, vis., in probation and EMS.</p>	<p>It may be the case that probation services experience an initial spike in cases.</p>
<p>Capacity limits on CAS-2 do not impact the estimated increase in the HDC population</p>	<p>Because of the sudden increase in HDC demand, the rate of CAS-2 referral rejection could increase due to lack of administrative capacity which would mean fewer people actually get released into CAS-2 and limiting the initial releases and prison place impact.</p>

Uncertainty in future CAS-2 caseload	It has been assumed that the propensity for an offender with a sentence of 12 months to 4 years to use CAS-2 is the same as that propensity for an offender with a sentence of more than 4 years. However, NACRO may be more reluctant to accept more serious offenders, which would affect volumes.
An optimism bias of 20% is applied to all impacts.	This standard practice to account for unforeseen costs or over-estimated practice benefits. Therefore, it may be the case that monetised costs and benefits are lower than forecast.

## G. Wider Impacts

### Equalities

56. We hold the view that none of the measures in this Impact Assessment are likely to be directly discriminatory within the meaning of the Equality Act 2010 as they apply equally to all offenders being sentenced. An Equalities Impact Assessment has been carried out in addition to this IA. Please see the Equalities Statement for further detail.

### Better Regulation

57. These proposals are not considered to be qualifying regulatory provisions and are out of scope of the Small Business Enterprise and Employment Act 2015.

### Environmental Impact Assessment

58. We expect there to be no environmental impacts as a result of the options within this IA. The policies meet the environmental principles in accordance with the Environment Act 2021.

### Possible Implications for International Trade

59. There are no international trade implications from the options considered in this IA.

## H. Monitoring and Evaluation

60. The impact of the changes will be monitored closely by MoJ and HMPPS jointly. Prison population and HDC release data is monitored weekly and an HMPPS HDC Working Group will oversee the implementation period to assess the impacts as assessed here.

<sup>[1]</sup> This is based on a marginal cost of an additional person on the probation licence caseload of c£4,500 (which compares to c£3,150 for an additional person on the probation court order caseload)

<sup>[2]</sup> <https://www.gov.uk/government/publications/prison-performance-data-2021-to-2022>

<sup>[3]</sup> Sourced from 2019/20 HMPPS internal analysis (inflated to 2023/24 prices).

<sup>[4]</sup> Bierie, DM (2012). 'Is Tougher Better? The Impact of Physical Prison Conditions on Inmate Violence', International Journal of Offender Therapy and Comparative Criminology, 56, 338-355

<sup>[5]</sup> HMPPS Evidence Based Practice Team. (2018). A rehabilitative prison environment. Evidence Summary. Internal document. And HMPPS Evidence Based Practice Team. (2022). Green Prisons. Evidence Summary. Internal HMPPS document; Farrier, A., Baybutt, M., Dooris, M. (2019). Mental Health and Wellbeing Benefits from a Prisons Horticultural Programme, International Journal of Prisoner Health, vol. 15 (1), 91-104.

<sup>[6]</sup> Understanding prison violence: a rapid evidence assessment Professor James McGuire (2018)

<sup>[7]</sup> Tartaro and Levy (2007)

