

Title: The Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2019 IA No: MoJ046/2019 RPC Reference No: N/A Lead department or agency: Ministry of Justice Other departments or agencies: N/A	Impact Assessment (IA)			
	Date: 10 October 2019			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Secondary legislation			
	Contact for enquiries: Miranda Wilkinson (Miranda.wilkinson1@justice.gov.uk)			
Summary: Intervention and Options				
RPC Opinion: N/A				

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year	One-In, Three-Out	Business Impact Target Status
-£680m	N/A	N/A	N/A	Not a regulatory provision

What is the problem under consideration? Why is government intervention necessary?

The sentencing framework ensures that the time dangerous offenders spend in custody reflects the severity of their crimes and takes account of the risk they pose to the public, as seen in life sentences and the extended determinate sentence (EDS). Under the EDS offenders must spend at least two-thirds of their sentence in prison before being considered for release. Other offenders who commit serious offences, however, are sentenced to standard determinate sentences (SDS) and automatically released halfway through their custodial term. Under the preferred option, the most serious violent and sexual offenders sentenced to an SDS of 7 years or more who do not meet the 'dangerousness' threshold will also spend two-thirds of their sentence in custody, bringing them more closely in line with the EDS. Legislation is required to change the automatic release point. Moving this to later in the sentence will ensure that the most serious offenders spend much longer in prison, protecting the public and giving greater confidence to victims.

What are the policy objectives and the intended effects?

The policy objective is to ensure that the most serious offenders serving a long SDS for an offence for which the maximum penalty is life, spend longer in custody. This will better protect the public and provide greater public confidence in sentencing and the administration of justice. This will bring the treatment of serious sexual and violent offenders in line with the release provisions for those offenders serving an EDS.

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: Legislate to move the release point from half-way to two-thirds of the sentence for all serious sexual and violent offenders sentenced to 7 years or more

The government's preferred option is option 1 as this best meets the policy objectives. Under the preferred option the most serious offenders will spend a minimum of 1 year and 2 months longer in custody (with an associated equivalent reduction in their time on licence in the community).

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: n/a				
Does implementation go beyond minimum EU requirements?			N/A	
Are any of these organisations in scope?			Micro No	Small No
			Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A

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

Signed by the responsible Minister: Robert Buckland QC Date: 10 October 2019

Summary: Analysis & Evidence

Policy Option 1

Description: Legislate to move the release point from half-way to two-thirds of the sentence for all serious sexual and violent offenders sentenced to 7 years or more

FULL ECONOMIC ASSESSMENT

Price Base Year 19/20	PV Base Year 19/20	Time Period: 10yr (20/21-29/30)	Net Benefit (Present Value (PV)) (£m)		
			Low: -600	High: -800	Best Estimate: -680

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Construction cost of £390m	£65m	£620m
High	Construction cost of £520m	£85m	£830m
Best Estimate	Construction cost of £440m	£70m	£710m

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

The most serious violent and sexual offenders receiving an SDS of 7 or more years will spend longer in prison under Option 1 (released at 2/3 rather than 50% point) causing an increase in prison population. In March 2030 the prison population is estimated to be increased by around 2,000 due to this option. It is assumed that additional prison estate will have to be built to meet this demand and, therefore, that additional prison places will incur full running costs. This additional caseload is estimated to incur an annual running cost of around £70m with an estimated construction cost of around £440m.

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

As this option will only affect the automatic release point for relevant offenders, there will be no change in process causing additional costs. However, there will be a need to provide Offender Management in Custody for longer, which will require an adjustment to the resources required in custody. A later release date and reduced licence period could disrupt offenders' and family relationships and reduce opportunities for rehabilitation in the community.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	£7m	£25m
High	N/A	£9m	£33m
Best Estimate	N/A	£8m	£29m

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

Offenders affected by this option will be held in custody for longer, with an equivalent reduction in the period spent on licence in the community resulting in a saving for probation. In March 2030 the caseload on supervision in the community is estimated to be reduced by 2,000 under this option. This reduced caseload will result in an estimated annual saving of £8m.

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

Victims and the wider public will be protected from these serious offenders for longer, i.e. the additional period they remain in custody. Local authorities providing services when these offenders are released into the community may incur savings due to the reduced time on licence (although costs of social care in custody are higher). DWP may incur savings due to offenders being eligible to claim benefits later than under current provisions. A reduced period in the community will also reduce the impact on the police as responsible authority for Multi-Agency Public Protection Arrangements, and agencies with a duty to cooperate with MAPPA (children's services, health, local authorities).

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5%

- The estimated impacts of this option are based on observed sentencing volumes and internal forecasts; future volumes may vary meaning these impacts could be over- or under-estimates. The best estimate is based on a scenario that models the interaction with the anticipated impact on demand from the recruitment of 20,000 police officers. This change does not affect sentencing policy/ guidelines but it is possible that sentencing practice or offender behaviour could change. It is not possible to model the impact of any of these potential changes.
- Probation and Prison costs are based on averages and actual costs will vary depending on the needs and risks of the offender. As this option relates to serious offenders these could be underestimates.
- It is assumed that additional prison estate is required to accommodate the increased prison caseload in all scenarios. New capacity can be provided in a number of ways so construction costs are based on a combination of provisions including new builds and refurbishments. An 'optimism bias' has been built into all estimated impacts (costs and benefits), as is standard practice in IAs.

BUSINESS ASSESSMENT (Option 1)

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

EVIDENCE BASE

A. Background

1. Most custodial sentences are standard determinate sentences (SDS). In 2018, of the 77,485 adults sentenced to immediate custody, 92% received an SDS¹. They can be given for a wide range of offences, including serious offences where the individual has not been deemed dangerous.
2. Under current release provisions, set out in section 244 of the Criminal Justice Act 2003 (the 2003 Act), offenders serving SDS must be released at the halfway point of their sentence. This means that the vast majority of those serving custodial sentences are released halfway to serve the remainder of their sentence on licence in the community. Automatic release at the halfway point was first introduced in the Criminal Justice Act 1991 for those sentenced to less than four years. The 2003 Act made further changes, requiring all SDS prisoners to be automatically released at the halfway point.
3. For the most serious or dangerous offenders, life sentences, extended determinate sentences (EDS), and sentences for offenders of particular concern (SOPC) are available. At the most serious end, offenders receive life sentences for their crimes and may only be released following consideration by the Parole Board, having served the tariff set by the court.
4. The EDS sentence was introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. An EDS should be imposed where the court assesses the offender to be 'dangerous' – that is, considered to be a significant risk of committing further serious sexual or violent offences in the future and therefore requiring a 'public protection' sentence. The EDS is a sentence comprised of a custodial period and an extended period on licence (of up to 5 years for violent offenders and 8 years for sex offenders). Under the EDS, an offender must be released at the end of their custodial term, but the Parole Board has the discretion to release from the two-thirds point if satisfied that the offender's detention is no longer necessary for the protection of the public.
5. The robust sentences for dangerous offenders ensure that the time they spend in custody reflects the severity of their crimes and takes account of the risk they pose to the public. The additional extension period also ensures the sentence remains in force for a 'longer than normal' period for a fixed term sentence, in recognition of the need for ongoing public protection measures following release. While the public can have confidence in the sentences available for these most dangerous offenders, automatically releasing other sexual and violent offenders at the halfway point does not align with this more robust approach to dangerous offenders following the introduction of the EDS. Although they are treated distinctly because they have not been assessed as dangerous, this Government believes that reform to the administration of these sentences is needed to ensure that the most serious violent and sexual offenders spend a longer part of their sentence in prison, protecting the public and giving greater confidence to victims.
6. This Impact Assessment (IA) considers the effects of adopting a similar approach for the most serious offenders receiving an SDS, but who are not deemed 'dangerous' by the courts. The automatic release point would be moved from halfway to two-thirds of the custodial period for the most serious sexual and violent offenders, defined as:
 - those convicted of a relevant violent or sexual offence (listed in Schedule 15 – Parts 1 and 2 – of the 2003 Act), and for which the maximum penalty is life; and
 - where the offender has been sentenced to an SDS of 7 years or more.

B. Policy Rationale and Objectives

7. 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

¹ Ministry of Justice, Criminal Justice System Statistics Quarterly: December 2018, based on Sentencing Data Tool filtering for Standard Determinate Sentences. Including sentences of 'Young Offender Institutions' for young adults (18-20), increases this proportion to 99%.

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).

8. In this case, however, the primary rationale and the associated policy objectives for the options assessed in this IA are to improve public protection and improve victims' confidence in the administration of justice by requiring the most serious offenders to serve a greater proportion of their sentence in custody.
9. Moving the release point to two-thirds of the sentence for these cases will also bring it in line with the earliest release point for EDS, with the remainder of the sentence to be served on licence (as now, though with the equivalent reduction in the licence period), providing a greater coherence with the wider sentencing framework. It will not apply retrospectively, only to those newly sentenced on or after the commencement date.

C. Affected Stakeholder Groups, Organisations and Sectors

10. The following groups will be most affected by the options considered in this IA:

- HM Prison and Probation Services (HMPPS);
- Offenders and their families
- Victims and the general public;
- Police service;
- Department for Health and Social Care (DHSC)/National Health Service (NHS);
- Local Authorities;
- Department for Work and Pensions (DWP);
- HM Treasury (HMT).

D. Description of Options Considered

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

- **Option 0: Do nothing:** Make no changes to the release point for serious offenders;
- **Option 1: Legislate to move the automatic release point for serious offenders from halfway to two-thirds of the custodial period.**

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

Option 0: Do nothing

13. Under option 0, it is assumed that the relevant prison population would follow existing trends and remain stable. Serious sexual and violent offenders sentenced to an SDS of 7 years or more would continue to be released at the halfway point of their sentence and serve the second half on licence in the community, subject to appropriate conditions.

Option 1: Legislate to move the automatic release point for serious offenders from halfway to two-thirds of the custodial period

14. This option would involve introducing an affirmative Statutory Instrument (SI) to change the release point for relevant offenders sentenced to an SDS. Under this option, the automatic release point would be moved from halfway to two-thirds of the custodial period for the most serious sexual and violent offenders (convicted of a relevant violent or sexual offence for which the maximum penalty is life), where the offender has been sentenced to an SDS of 7 years or more. They would serve the remainder of their sentence on licence in the community, subject to appropriate conditions.

15. This will result in an increase in the time spent in custody, proportionate to the length of sentence. There will be a corresponding reduction in the time spent on licence.

Table 1: Change to custodial period under Option 1 (example)

Sentence length	Release at halfway point	Release at two-thirds point
7 years	3 years 6 months	4 years 8 months
8 years	4 years	5 years 4 months
9 years	4 years 6 months	6 years
10 years	5 years	6 years 8 months
12 years	6 years	8 years
15 years	7 years 6 months	10 years

E. Cost and Benefit Analysis

16. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
17. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales² with the aim of understanding what the overall impact on society might be from the proposals under consideration. IAs place a strong focus on monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. These might be impacts on certain groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.
18. The costs and benefits of each proposal 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).
19. The implementation date of the policy is assumed to be 1 April 2020.
20. Throughout this IA, the annual costs and benefits are presented based on the change in caseload observed as of March 2030. All estimates, unless stated otherwise, are annualised figures in 2019-20 prices with a 3.5% discount with respect to time applied. Costs have been rounded to nearest £10m when over £100m, £5m when over £50m and £1m otherwise.
21. Construction costs are presented in 2019-20 prices; it has been assumed that the cost of building the additional prison places resulting from option 1 will fall across the two financial years prior to the places being needed. Based on this assumption, the construction costs have been discounted with respect to time.
22. A 20% optimism bias has been applied to all prison impacts, an optimism bias of 11% has been applied to probation impacts³ (costs and benefits).
23. Net Present Value (NPV) is presented for 10 years (2020-21 to 2029-2030), including optimism bias and a 3.5% discount rate with respect to time.

² The policy change will only apply to England and Wales as justice matters for Scotland and Northern Ireland are devolved.

³ The future design of the probation system is subject to an ongoing business case, the level of optimism bias reflects those employed in the ongoing business case.

Option 1: Legislate to move the automatic release point for serious offenders from halfway to two-thirds of the custodial period

24. In 2018 there were around 1,450 sentences for offences within scope of option 1 (i.e. for violent and sexual offences carrying a maximum of life imprisonment and where the offender was sentenced to an SDS of 7 or more years⁴).
25. Any change in the number of sentences of 7 or more years imposed for the most serious violent and sexual offences, and any change in the average length of sentences of 7 years or more, would increase or decrease the impacts of Option 1. While this change does not affect sentencing directly and courts must continue to sentence according to the facts of the case and sentencing guidelines, it is possible that as a result of this policy the length of sentences handed down by the courts could be reduced in view of the longer period to be spent in prison. It is also possible that offender behaviour will change as a result of this policy: offenders could enter earlier guilty pleas to receive the maximum reduction in sentence, or enter a guilty plea instead of a not guilty plea to take their sentence below the 7-year threshold. If any of these changes to behaviour happen, the impact would be lower than the estimates presented here. However, it is not possible to quantify the potential impact and for the purposes of this impact assessment we assume no change to sentencer or offender behaviour.
26. There is significant uncertainty around the future volume and case-mix of demand coming before the courts. In particular, a policy that could have a substantial impact on sentencing volumes is the Government's announced intention to recruit an additional 20,000 police officers.
27. The impact of recruiting an additional 20,000 police officers is uncertain, although it can be expected to have some impact on the number of cases being charged, prosecuted and resulting in custodial sentences. The focus of this IA is the impact of the proposed change to the release point in isolation; however, given the potential scale of the impact of recruitment of 20,000 additional police officers or other changes demand, the impacts of Option 1 are presented under 3 scenarios:
- **Low:** Based on no change to our current sentencing projections, this assumes that the impact of police recruitment on the volume of custodial sentences will be entirely offset by other measures/impacts.
 - **Central:** Based on sentencing projections that consider the possible interaction of the change to the release point with an estimate of the impact on demand from the recruitment of 20,000 police officers, which assumes a change in volumes of cases but no change in case mix.
 - **High:** Based on sentencing projections that consider the possible interaction of the change to the release point with an increase in charges and subsequent prosecutions of 'high harm' offences, such as sexual offences, which receive longer custodial sentences.
28. The central estimate of the impacts of Option 1 is that the prison population will increase by 2,000 places by March 2030. This impact will increase from fewer than 50 additional places in March 2024, around 300 by March 2025, and around 800 in March 2026. Table 2 shows the estimated prison place impact per year of Option 1 under each scenario.

Table 2: Additional prison population resulting from Option 1 as of March 2024 to March 2030.

	March 24	March 25	March 26	March 27	March 28	March 29	March 30
Low	<50	300	700	1,100	1,400	1,600	1,800
Central	<50	300	800	1,200	1,600	1,900	2,000
High	<50	400	900	1,400	1,900	2,200	2,400

Costs of Option 1

Monetised costs

⁴ Data on sentencing volumes is published by the Ministry of Justice (Criminal Justice System Statistics Quarterly: December 2018; <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2018>). This figure is calculated from the same underlying data as these published statistics but uses a bespoke breakdown of the data that is not available via the published data tools.

HMPPS

29. Any additional prison places will incur an annual running cost of £40,483^{5,6}. This is the average cost of providing a prison place for a year based on overall resource expenditure and includes staffing and estate costs, it does not cover contracted out costs or capital.
30. It is assumed that the increase in the prison population arising under any of these scenarios will require the construction of additional prison capacity through prison building. If additional caseload could be accommodated in existing estate, then additional running costs would be lower. Running costs may be higher or lower depending on the specific estate required to accommodate the additional caseload.
31. New capacity can be provided in a number of ways, so construction costs are based on the cost per place of a combination of provisions including new builds and refurbishments, and is based on the nominal costs of each project, using a modelled profile of build. Costs will vary depending on the type of prison being built.
32. Under the central scenario, the annual prison running costs for the 2,000 additional prison places forecast to be observed in March 2030 will be around £70m. For the low and high scenarios, the estimated annual costs will be around £65m and £85m respectively. These costs will fall on HMPPS.
33. Construction costs are estimated as £440m to accommodate the increased prison population estimated under the central scenario. For the low and high scenarios, the cost is estimated to be £390m and £520m respectively.
34. Prison place impacts will be minimal up to 2023-24, with fewer than 50 additional places required in March 2024, after which they will rise to around 2,000 in March 2030 (see Table 2). The additional cost to the prison service (including construction costs) over the 10-year period from 2020-21 to 2029-2030 is estimated to be £710m in the central scenario (£620m and £830m in the low and high scenarios respectively).

Non-monetised costs

HMPPS

35. As this only affects the automatic release point for relevant offenders, there will not be any changes in process from which additional costs could arise. However, the longer period in custody will have implications for the provision of services through the Offender Management in Custody model, which could require reallocation of resources from probation in the community into custody.
36. There are potential wider impacts of this policy that it has not been possible to quantify due to the limited evidence of the impact of longer prison terms. There is some evidence that indicates that prisoners in custody for longer come to terms with their offending and are able later in their sentence to begin constructive activities.⁷ However, research also shows that serving a life sentence can be a risk factor linked to an increased risk of self-harm while in prison (as well as being on remand/unsentenced)⁸.
37. There is a potential transitional risk to prison stability in the period following implementation. Those prisoners sentenced under the new policy will serve longer in custody than other prisoners given an equivalent sentence prior to the introduction of the policy. This could lead to increased tensions in prison establishments, with consequent impacts on prisoner violence or self-harm.

⁵ In 17-18 prices, this was converted to 19-20 prices for this analysis.

⁶ Ministry of Justice, Prison performance statistics 2017 to 2018. <https://www.gov.uk/government/statistics/prison-performance-statistics-2017-to-2018>

⁷ <https://www.compen.crim.cam.ac.uk/PDFs/SwimmingwiththeTideAdaptingtoLongTermImprisonment.pdf>

⁸ <https://www.gov.uk/government/publications/self-harm-by-adult-men-in-prison-a-rapid-evidence-assessment>

38. Since this policy is expected to lead to increases in the prison population over time, there is the possibility that this could impact upon crowding if the population increases at a faster rate than expected, and therefore ahead of the timescales for building additional prison capacity. Although crowding is not in and of itself a cause of prison violence, it could impact upon the ratio of staff to offenders and the ability to provide a full regime of activities and time out of cell, a factor associated with increased levels of violence.^{9,10} If this were to result, it could also have an associated impact on prisoners' rehabilitation.

Offenders and their families

39. Prisoners remaining in custody for longer could have a negative impact on their families as they will be apart for longer. Living with immediate family post-release appears to be a protective factor against reoffending¹¹; being in prison for longer periods could increase the risk of relationship breakdown thereby removing this protective factor and increasing the risk of reoffending.

40. Prisoners affected by this policy will serve a shorter period on licence to support their transition into the community. It is unknown how this will impact upon successful reintegration into society, but there is a risk that this could increase demand on prisons to provide offending behaviour interventions while in custody and reduce the probation capacity to provide the full range of rehabilitative services. This in turn could impact on the likelihood of the affected offenders reoffending.

Health and social care

41. NHS England/Wales & NHS Improvement (NHSE/I) are responsible for commissioning and delivering health services in prisons in England and Wales. With some prisoners in custody for longer, there will be an impact on the provision of healthcare in prison, which has higher costs than provision of healthcare in the community. It has not been possible to quantify this.

42. Ageing prisoners in particular currently require social care to be provided in custody. While there will be a reduced period in the community over which any care is required, the costs of social care in custody can be higher, so this could result in a net cost to DHSC and local authorities in England, and to the Welsh Government. Again, it has not been possible to quantify this.

HMT

43. There may be costs in terms of lost tax revenue receipts for offenders who may otherwise have been in employment between the 50% and two-thirds release point of their sentences.

Benefits of Option 1

Monetised benefits

Probation

44. Some offenders on SDS will be in prison for longer under option 1. As the additional time that they are in prison is time that they would otherwise have been on licence in the community, the probation licence caseload will decrease by the equivalent of the increase in the prison population (see Table 2).

45. Probation costs are based on average costs for managing offenders in the community, it is based on an estimate of the cost for the future probation system, based on a caseload forecast broadly in line with current estimates. It should be noted that the future design of the probation system is subject to an ongoing business case, as such the estimated costs could vary.

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737956/understanding-prison-violence.pdf

¹⁰ <https://www.gov.uk/guidance/violence-reduction-in-prison>

¹¹ <https://www.gov.uk/government/publications/results-from-the-surveying-prisoner-crime-reduction-survey>

46. As this policy will affect the most serious offenders, they may be more likely to draw on higher cost probation resources, or have higher levels of offender management needs than others which could mean that these savings are an underestimate. It has not been possible to refine this cost estimate to directly represent the cohort in question.
47. The decrease in the probation licence caseload in March 2030 of around 2,000 (under the central scenario) is estimated to equate to annual savings of around £8m. For the low and high scenarios, the estimated annual saving is estimated to be around £7m and £9m respectively.
48. The savings to the probation service over the 10-year period from 2020-21 to 2029-2030 is estimated to be £29m in the central scenario (£25m and £33m in the low and high scenarios respectively).

Non-monetised benefits

Victims and the general public

49. Research into victims' views on sentencing and time spent in custody is limited. However, a 2012 study found that victims of sexual offences (who will be more likely to be affected by this policy) were unclear on what the sentences handed down by the court meant in practice. Whilst some may have felt pleased initially at the outcome of sentencing, they could feel 'let down' after learning that the sentence given did not relate to the actual time the offender would spend in custody. Victims who perceived the custodial sentence as short reported concerns about the offender being released soon and a fear of meeting them again.¹²
50. Holding the most serious SDS prisoners in custody until the two-thirds point will ensure victims and the wider public are protected for longer, through the offenders' incarceration, and enable victims to feel safe for longer. These offenders will still be subject to stringent licence conditions and liable to be recalled to prison for the remaining third of their sentence following release, though it is unknown whether a reduced licence period will have any impact. As this will be a matter of release at a fixed point, not a discretionary decision, victims will continue to have certainty and be able to prepare accordingly, including through requesting specific licence conditions for their protection (such as exclusion zones and non-contact conditions).

Police service

51. Under this option, offenders will be released later, reducing the period over which the police will be responsible for monitoring violent offenders subject to Multi-Agency Public Protection Arrangements (MAPPA). There will be little impact in respect of sex offenders, who will be subject to sex offender registration for life.

Local Authorities

52. Local authorities who provide services to these offenders when released into the community may incur savings due to the reduced time these offenders will spend in the community. This will relate particularly to accommodation, but will also be relevant for those cases in which Children's Services are involved as an agenda with a 'duty to cooperate' with MAPPA.

DWP

53. Prisoners released later would be eligible to claim benefits later than under current provisions in which they remain in prison only until the halfway point.
54. Experimental statistics from the 2013 MoJ/DWP/HMRC data share¹³ show that claiming out-of-work benefits is common amongst offenders released from prison with over half (54%) of offenders

¹² Attitudes to sentencing sexual offences, Sentencing Council, 2012
https://www.sentencingcouncil.org.uk/wp-content/uploads/Attitudes_to_Sentencing_Sexual_Offences_web1.pdf

¹³ Experimental statistics from the 2013 MoJ /DWP /HMRC data share. Accessed at <https://www.gov.uk/government/statistics/experimental-statistics-from-the-2013-moj-dwp-hmrc-data-share>

claiming out-of-work benefits one month after release from prison, gradually decreasing to 42% two years after. Nearly 80% of offenders released from prison in 2010/11 claimed at least one out-of-work benefit at some point in the two years following their release from prison. Therefore, there may be savings as a result of later release from prison.

55. It has not been possible to quantify these benefits, regardless, it should be noted that these would be transfer impacts (a redistribution of resources between groups in society rather than the use of real resources) and so would not be included in any NPV calculation.

Unquantified impacts

56. There could be a transitional effect on HMCTS should there be any pressure to list serious cases for trial or for sentencing ahead of implementation. However, due to the limited time ahead of the proposed commencement date (April 2020), it is likely that the impact on trial listings will be minimal.

57. Reoffending data specific to this cohort of offenders is not available. While we know that those sentenced to longer prison terms have lower rates of reoffending than those sentenced to short prison sentences, there is no evidence of causation or correlation. We therefore cannot say whether increasing the period spent in custody will impact upon reoffending rates.

F. Assumptions and Risks

58. The impacts estimated in this IA are based on certain assumptions. These assumptions, and the associated risks, are described in Table 3 below.

Table 3: Risks and Assumptions

Assumptions	Risks / uncertainties
<p>Modelling is based on sentencing volumes observed in 2018¹⁴ and internal projections of future prison receptions.</p> <p>These projections are based on a number of assumptions, for example it is not known what proportion of offenders will be discharged from prison before or after their expected release date (due to factors such as medical release, foreign national offender transfer, further offences while in custody), although we attempt to account for this, assumptions are likely imperfect and could result in an over or under estimate of impacts</p>	<p>The projections of future prison receptions account for best available evidence but changes to upstream factors such as crime, police resourcing, charges, sentencing and future policies will result in variation from projections and actual population. Therefore, the actual impact may vary and scenarios that account for possible impacts of recruiting 20,000 police officers have been presented.</p>
<p>Sentencing behaviour will not be impacted by this reform.</p> <p>This includes the assumption that sentence lengths will not be reduced to counteract the increased period offenders will spend in custody.</p>	<p>The overall sentence is not changing, only the automatic release point. Therefore, sentencing behaviour should not change.</p> <p>If this reform led to judges giving shorter sentences than currently observed then the impacts may be lower than estimated.</p>
<p>3 scenarios are presented; a low scenario based on current prison reception projections and central and high scenarios that consider the impacts in the context of increased sentencing volumes for the cohort in question.</p> <p>The central (best) scenario considers the interaction with a central estimate of the impact of recruiting 20,000 police officers and the high scenario assumes there will be increased</p>	<p>As the impact of recruiting 20,000 police officers is uncertain, the actual impacts of the 20k police officers may be higher or lower than the scenarios included meaning these may be over- or under-estimates.</p> <p>Other unknown factors that could impact future sentencing volumes have not been considered meaning actual impacts may vary.</p>

¹⁴ {link to sentencing data tool}

<p>volumes of sentences for high harm offences resulting from a combined approach across the criminal justice system enabling a greater focus on serious offences</p> <p>Other policies that may alter sentencing volumes and interact with Option 1 have not been considered.</p>	
<p>The impact of recall to prison has not been considered in the modelling.</p>	<p>Some offenders are recalled to custody following their release due breaches of their licence conditions. This has not been accounted for in the modelling (it has been assumed that in the counterfactual they are released at 50% and not recalled) meaning that prison place impacts may be small overestimates.</p>
<p>New prison capacity in the form of additional prison estate will need to be built to accommodate the increased prison population under all scenarios.</p> <p>Therefore, any additional prison places are assumed to incur an annual running cost of £40,843. This the average running cost per place based on published figures¹⁵, based on overall resource expenditure.</p> <p>It is assumed that the new estate will not be crowded.</p>	<p>Whether or not Option 1 requires additional prisons to be opened depends on what other policies and external factors have an impact on prison places simultaneously. If the additional caseload could be accommodated in existing estate then they may incur smaller, marginal running costs. This includes whether there is sufficient maintenance funding for the existing estate to reduce the likelihood of losing places through deterioration.</p> <p>Given the Government's intention to recruit 20k additional police officers and current prison forecasts and capacity, this assumption is considered to be reasonable.</p> <p>Running costs may be higher or lower depending on the specific estate required to accommodate the additional caseload.</p>
<p>New capacity can be provided in a number of ways so construction costs are based on the cost per place of a combination of provisions including new builds and refurbishments and is based on the nominal costs of each project, using a modelled profile of build.</p> <p>It has been assumed that the cost of building additional prison places will fall across the two financial years prior to the places being needed.</p>	<p>Construction figures may change in the future, meaning this could be an underestimate.</p> <p>Costs will vary depending on the type of prison being built and whether any could be accommodated in existing capacity.</p> <p>Actual build times may vary, meaning these estimates may vary.</p>
<p>Additional prison estate can be constructed to accommodate the increased prison population under all scenarios.</p>	<p>There are constraints on how quickly new prison places can be provided due to identifying suitable sites, securing planning permission, having sufficient construction market capacity, as well as operational challenges of ramping up multiple prisons. If other policies were to increase prison population, or the impacts of Option 1 are greater than anticipated there is a risk that the increased capacity may not be able to meet the demand.</p>

¹⁵ Ministry of Justice, Prison performance statistics 2017 to 2018. <https://www.gov.uk/government/statistics/prison-performance-statistics-2017-to-2018>

<p>Probation savings are based on the reduced time that an offender will spend on licence in the community – any additional time spent in prison is time that would have been spent on licence.</p>	<p>This does not consider the impact of Option 1 on probation work pre-release, however the impact of Option 1 will be to delay the timing but not change the overall volume of pre-release caseload.</p>
<p>Probation costs are based on average costs for managing offenders in the community, it is based on an estimate of the cost for the future probation system, based on a caseload forecast broadly in line with current estimates.</p>	<p>Certain groups of offenders may be more (or less) likely to draw on certain probation services or have higher/lower levels of offender management needs than others which would result in a deviation away from this average unit cost.</p> <p>As this policy will affect the most serious offenders, they may be more likely to draw on higher cost probation resources, or have higher levels of offender management needs than others which would result in a deviation away from this average unit cost.</p> <p>It should be noted that the future design of the probation system is subject to an ongoing business case, and this cost is prior to that case going through its full governance.</p>
<p>As well as front office staff costs, probation costs also include back-office costs such as estates, ICT, and other overheads.</p>	<p>By applying this cost we are implying that there will be reduction or increase in costs of these back-office functions e.g. closed offices. These kinds of changes would typically involve transition cost which is not captured.</p> <p>For marginal changes in caseload, it is likely that this cost is an over-estimate (since e.g. 1 additional offender won't alter the estate needed for the probation service).</p>
<p>An optimism bias of 20% has been applied to the prison running construction costs. The probation costs include an optimism bias of approximately 11%, in-line with that being employed in the ongoing business case.</p>	<p>This standard practice to account for unforeseen costs or over-estimated benefits. Therefore, it may be the case that monetised costs and benefits are lower than forecast.</p>

G. Wider Impacts

Equalities

59. The preferred option will amend the release date for all relevant offenders. Whether or not the change of release point applies is not a matter of discretion; it will apply to any offender meeting the definition of serious offender set out in the Order (and at paragraph 6 above). Consequently, we do not foresee any change in the treatment of affected groups to that observed under Option 0. Our assessment is that this policy is not directly discriminatory within the meaning of the Equality Act 2010, as the changes from the preferred option apply in the same way to all relevant offenders, regardless of their protected characteristics. An equality impact assessment has been undertaken in preparation for this change.

Better Regulation

60. These proposals do not meet the definition of regulation under the Small Business Enterprise and Employment Act 2015. Any costs which arise will not score against the department's business impact target and will met by MoJ and HMPPS.

H. Monitoring and Enforcement

61. The impact of the changes will be monitored by MoJ and HMPPS jointly.