

Title: The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 14) Order 2019 IA No: MoJ044/2019 RPC Reference No: Lead department or agency: Ministry of Justice Other departments or agencies: /	Impact Assessment (IA)		
	Date: 10/10/2019		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Affirmative SI		
	Contact for enquiries: robyn.malandemerindol1@justice.gov.uk		
Summary: Intervention and Options			RPC Opinion: N/A

Cost of Preferred (or more likely) Option			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£44m	N/A	N/A	N/A

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

Problematic alcohol consumption is associated with crime, particularly heavy or binge drinking and violent crime. The Alcohol Abstinence and Monitoring Requirement (AAMR) was introduced via the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to provide a sentencing option for alcohol related offending where a community order or suspended sentence order is imposed. The AAMR requires an offender (who is not alcohol dependent) to abstain from alcohol for up to a maximum of 120 days and for compliance with this condition to be electronically monitored. Legislation requires that AAMR is piloted before it can be rolled out. The MoJ has supported two successful pilots, using continuous transdermal alcohol monitoring, and these pilots have been sufficient exploration of the requirement to inform the decision to fully commence the legislation and roll out AAMR across England and Wales.

What are the policy objectives and the intended effects?

The policy objective is to provide a new, non-voluntary community sentencing option, for adult offenders, that directly responds to alcohol-related crime where dependency is not an issue. AAMRs are intended to tackle offending behaviour where alcohol has been a contributory factor. They are meant to punish the offender by ensuring they do not consume alcohol during the period in which the AAMR is in force, and through enforcing abstinence they are designed to mitigate offending behaviour which is driven by alcohol. An enforced period of abstinence could reduce alcohol related crime at an individual level, making public sector savings in terms of managing and dealing with the outcomes of it, and should lead to fewer victims. We would also expect this to have a positive effect more broadly in communities and on individuals, such as improved health, finances and relationships.

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: Commence the legislation and roll out AAMR across England and Wales, with a phased roll out starting in 2020.

The preferred option is option 1 as this best meets the policy objectives. Evaluation of the AAMR pilots show high compliance with the requirement (94%) and high level of abstinence (98% sober days). It is reasonable to expect that a period of sobriety may result in reduced offending and therefore fewer victims and a period of abstinence in which to engage with other rehabilitative activity where this has been identified.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year					
Does implementation go beyond minimum EU requirements?			N/A		
Is this measure likely to impact on international trade and investment?			No		
Are any of these organisations in scope?		Micro No	Small No	Medium No	Large No
What is the CO 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 Date: 10/10/2019

Summary: Analysis & Evidence

Policy Option 1

Description: Commence the legislation and roll out AAMR across England and Wales, with a phased roll out starting in 2020.

FULL ECONOMIC ASSESSMENT

Price Base 2019/20	PV Base 2019/20	Time Period 10 Years	Net Benefit (Present Value (PV)) (£m)		
			Low: -£33m	High: -£71m	Best Estimate: -£44m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£10m	£5m	£33m
High	£18m	£11m	£71m
Best Estimate	£13m	£7m	£44m

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

Our best estimate is that in steady state about 2,300 people will be sentenced to these orders each year, with a caseload of 400 at any given point. The main costs associated with this relate to the costs of electronic monitoring, including the hardware and the monitoring itself. There will also be field services costs for fitting and removing equipment. We estimate the hardware, monitoring and field services to cost £38m over 10 years. Costs to set up the operational delivery and some impact on probation for monitoring are included in this. We expect there will be costs associated with breach of these order for courts, legal aid, and an impact on prison places where breach results in custody. These additional costs are expected to total £6m over 10 years.

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

There may be additional costs such as AAMR being a new factor to consider when conducting pre-sentence reports. These have not been costed as they are uncertain but, based on the pilots, are expected to be low. Costs for other CJS stakeholders, such as court staff, have not been costed as AAMR will be integrated into existing practice to minimise impacts.

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

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

These have not been quantified due to the limited evidence on the magnitude of these impacts.

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

Whilst not possible to quantify, a range of benefits are expected from rolling out AAMR. These include: improved confidence in the CJS's ability to respond to alcohol related crime; reductions in criminal activity and fewer victims during the period of abstinence; enhanced offender risk management, supervision and support; potential prison place savings if sentencers view AAMR as supporting giving a suspended sentence order for those on the custody threshold; and wider benefits, such as improved health. AAMR may reduce reoffending. This is supported by some US evidence, although findings may not be transferrable. Both pilots in England have an impact evaluation planned, but findings are not yet available to be able to quantify any reductions in reoffending.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

The key assumptions are the number of AAMR starts and number of tags in use at any given point, which are uncertain and dependent on sentencing decisions, including on the length of order imposed. A low, high and best estimate have been based on experience of electronic monitoring and the average length of AAMR given in the London pilot although there is high uncertainty as to how this will translate to national roll out. Costs for the electronic monitoring services assume 75% of 'new world' Electronic Monitoring pricing, as monitoring for AAMR will be conducted by probation staff. The latter is assumed to require 0.1FTE of an Administrative Officer role per Local Delivery Unit. Other assumptions include the proportion of AAMR orders that are breached, based on pilot compliance data, and the court time involved for breach hearings, which is expected to be low, and the proportion sentenced to custody for breach.

BUSINESS ASSESSMENT (Option 1)

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

Evidence Base (for summary sheets)

A. Background

Problem under consideration

1. Problematic alcohol consumption is associated with crime, particularly heavy or binge drinking and violent crime.¹ For example, the Crime Survey for England and Wales estimates that the proportion of violent incidents where the victim believed the offender(s) to be under the influence of alcohol, for year ending March 2018, was 39%.²
2. The Alcohol Abstinence and Monitoring Requirement (AAMR) was introduced via the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which inserted the AAMR at section 212A into the Criminal Justice Act 2003, creating a new requirement that can be used where a community order (CO) or suspended sentence order (SSO) is imposed. The AAMR requires an offender (who is not alcohol dependent or subject to an Alcohol Treatment Requirement) to abstain from alcohol for up to a maximum of 120 days and alcohol monitoring monitors compliance with this condition. AAMR will be a new option for adults sentenced to community orders and suspended sentence orders that provides a non-voluntary response to alcohol-related crime where dependency is not an issue.
3. AAMRs are intended to tackle offending behaviour where alcohol has been a contributory factor. They are meant to punish the offender by ensuring that they do not consume alcohol during the period in which the AAMR is in force, and through enforcing abstinence they are designed to mitigate offending behaviour which is driven by alcohol. Those subject to an AAMR should not be drinking alcohol during the lifetime of the order thereby removing a contributing factor to the behaviour of offenders who undertake alcohol related crimes. Reducing alcohol related crime should make public sector savings in terms of managing and dealing with the outcomes of it, and should lead to fewer victims. We would also expect this to have a positive effect more broadly in communities and on individuals, such as improved health and relationships.
4. It was a requirement of the legislation that the AAMR be piloted before it can be rolled out. The Ministry of Justice (MoJ) has supported two successful pilots for AAMR, one run by the London Mayor's Office for Policing and Crime (MOPAC); and one in Humberside, Lincolnshire and North Yorkshire (HLNY). Both of these used continuous transdermal alcohol monitoring via an electronic tag worn on the ankle that takes a sample of sweat every 30 minutes which is analysed for the presence of alcohol. Data from the tag shows the levels of alcohol over the entire period of monitoring.
5. Both these pilots are now complete and have been successful in exploring and testing the suitability of the AAMR, enabling a decision to be made to commence roll out of AAMR. On the basis of the evidence gained from these pilots, the MoJ considers that it now has the information necessary to fully commence the legislation and roll out AAMR across England and Wales. This Impact Assessment (IA) considers the impacts of the full commencement of this legislation.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/305319/transforming-rehabilitation-evidence-summary-2nd-edition.pdf

² <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/thenatureofviolentcrimeinenglandandwales/yearendingmarch2018>

Key learning from the pilots

6. MOPAC have published four evaluations of their pilot at different stages. The evaluation of the HLNY pilot is not due until February 2020 but sufficient learning has been shared with the MoJ, through ongoing involvement with the pilot and its evaluation, to indicate findings consistent with, and complementary to, the MOPAC pilot and on this basis of these findings, we consider ourselves in a position to make a decision about roll out.
7. The contribution of the HLNY pilot has been significant in adding to our knowledge of the requirement, for example it asked sentencers not to order AAMR as a standalone requirement, so that abstinence was imposed alongside other rehabilitative conditions such as a Rehabilitation Activity Requirement (RAR), to allow for rehabilitation activity to take place during a period of sobriety, and included offenders convicted of domestic abuse offences, where appropriate.
8. MOPAC's published research evaluated the pilots positively suggesting that the introduction of AAMR is supported and welcomed by criminal justice system (CJS) stakeholders; and is seen as punitive as well as rehabilitative. 1,014 AAMRs were imposed between April 2016 and March 2018, with an average length of 61 days tagged, with 45% for violent offences.³ The findings showed that AAMR has the potential to have a positive impact on the lives of the offenders, particularly around reducing their alcohol consumption; and that offenders were generally optimistic about the requirement and felt that the AAMR had a positive impact on their lives, particularly around their health, wellbeing and offending behaviour. A high compliance rate was seen, with 94% of AAMRs complied with and on 98% of days monitored across AAMRs no alcohol consumption was recorded. Similar levels of compliance are indicated from the HLNY pilot (unpublished).
9. The numbers of AAMRs also indicate that courts have an appetite for the requirement and MOPAC found that 82% of stakeholders welcomed a national roll out of the AAMR providing the court with an additional disposal, specifically for alcohol related offending.

B. Policy Rationale and Objectives

Rationale for intervention

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. In this case the key rationale is efficiency – on the basis of the pilot evidence, the government believes that AAMR provides a credible solution that imposes a punishment directly related to the offending and which could reduce the harm from alcohol related crime. AAMR using continuous alcohol monitoring technology provides an option for decision makers when giving a community sentence for alcohol related criminal behaviour, that punishes and provides assurance around compliance. It is also a tool for probation to use in the management and rehabilitation of the offender.

³ https://www.london.gov.uk/sites/default/files/aamr_final_process_performance_y2_report_final.pdf

Policy objective

12. The associated policy objectives are that the AAMR should provide the following outcomes:

- A punitive sanction
- A robust community-based response to alcohol related crime
- Improving public confidence in the ability of the CJS to tackle alcohol-related crime
- A credible technological response for the courts and probation
- Offenders, where the offence is alcohol related, not to drink alcohol
- High level of compliance with the Requirement
- Enhanced offender management
- Support for rehabilitation
- Useful, useable, accessible information for offender managers to support management and enforcement
- AAMR has the potential for positive non-CJS outcomes: health, finance, child safeguarding and relationships.

C. Affected Stakeholder Groups, Organisations and Sectors

13. The following groups are most likely to be impacted by the options assessed in this IA:

- Electronic Monitoring Services (EMS);
- HM Prisons and Probation Service (HMPPS);
- HM Courts and Tribunals Service (HMCTS);
- The Legal Aid Agency;
- Offenders where their offence is alcohol related;
- The immediate community of offenders subject to AAMR and wider society.

D. Description of options considered

14. To meet the policy objectives, two options are assessed in this IA:

- **Option 0:** Do nothing;
- **Option 1: Commence the legislation and roll out AAMR across England and Wales, with a phased roll out starting in 2020.**

Option 0

15. This option would maintain the status quo, with community order and suspended sentence order requirements as now, with no option for AAMR.

16. This option does not act upon the positive findings from the two AAMR pilots, that the MoJ has supported, and will disappoint the stakeholders supportive of national roll out.

Option 1

17. This option would roll out AAMR across England and Wales as a sentencing option for the courts when community orders and suspended sentence orders are imposed, for adult offenders who are not dependant on alcohol or subject to an Alcohol Treatment Order but alcohol has been a factor in their offending. The maximum length of an AAMR is 120 days. A phased roll out would start from 2020, using continuous transdermal alcoholic monitoring.

18. Continuous transdermal alcohol monitoring uses an electronic tag worn on the ankle that takes a sample of sweat every 30 minutes which is analysed for the presence of alcohol, as well as a Home Monitoring Unit which collects the monitoring data from the tag automatically at pre-agreed times. This data is then uploaded to the cloud where it is collected for analysis by the monitoring company. The data show the levels of alcohol over the entire period of monitoring i.e. there are no gaps. The analysed data is available to probation staff entitled to access it via a portal and the monitoring company sends a Daily Action Plan to identified staff alerting them to any breaches. Alcohol monitoring tags require fitting and removal in a similar way to Radio Frequency (RF) and GPS tags.
19. The substantive legislation for AAMR is found in s76 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which inserts the Alcohol Abstinence and Monitoring Requirement into the Criminal Justice Act at s212A. AAMRs are intended to tackle offending behaviour where alcohol has been a contributory factor. They are meant to punish the offender by ensuring that they do not consume alcohol during the period in which the AAMR is in force, and through enforcing abstinence they are designed to mitigate offending behaviour which is driven by alcohol. Those subject to an AAMR should not be drinking alcohol during the lifetime of the order thereby removing a contributing factor or trigger to the behaviour of offenders who undertake alcohol related crimes.

E. Cost and Benefit Analysis

20. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
21. 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 options 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.
22. The costs and benefits of each option 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).
23. The impacts in this IA have been calculated on the following basis:
- The NPV of the options considered are presented using a 10-year appraisal period from 2019/20. All NPV figures are real and have been discounted at 3.5%.
 - All the monetised impacts include an optimism bias of 20%.
 - 10 year costs are presented in present values, whereas the annual average once in steady state are given in constant prices.
 - Figures less than £1m have been rounded to the nearest £0.5m, all other costs are rounded to the nearest million.

Option 1: Commence the legislation and roll out AAMR across England and Wales, with a phased roll out starting in 2020.

Methodology

24. All costs are approximate and based on evidence that is limited to the two pilots and experience of running the MoJ's existing electronic monitoring service (EMS). Costs included are highly uncertain and dependent on the number of AAMR starts and caseload, determined by sentencing decisions, including on the length of order. Likewise, no benefits have been monetised as they cannot be quantified fully, but the expected benefits are described. Both pilots are producing an impact evaluation, including impact on reoffending, which would enable further quantification of the potential benefits, but these findings are not yet available.
25. Given the above, the assumptions used in the analysis, as well as the main risks involved and a sensitivity analysis, are described in section F of this IA.

Volumes

26. The range of costs outlined in the cost benefit analysis were calculated using low and high estimates relating to the number of AAMR starts and the number of orders at any point in time, as well as a 'best' estimate. These figures are highly uncertain and dependent on sentencing decisions, including on the length of order.
27. As we do not have data on how many offences sentenced at courts are alcohol-related and will be eligible for AAMR, the low and 'best' estimate scenario of caseload is based on experience with other electronic monitoring services. The high scenario applies the proportion of AAMR starts seen in year 2 of the London pilot to the number of CO and SSO starts across England and Wales in 2018/19.⁴ Due to the uniqueness of London, as a capital city and entertainment centre, this has been viewed as a representing a high scenario.
28. The ratio between the estimated caseload at any given point and number of annual starts is based on an average order length of 61 days, as reported in the London pilot.⁵ All monetised costs have been based on the volumes set out in Tables 1 and 2.

Table 1: estimated caseload by scenario

Scenario	20/21	21/22	22/23	Steady state from 23/24
Low	50	100	200	300
Best	75	200	300	400
High	100	300	500	700

⁴ There were 647 AAMR starts in year 2, 2017/18, of the London pilot (367 in year 1). Based on published data on CO and SSO starts in London in 2017/18, this represented 3.5% of CO and SSO starts in London that year. Source: https://www.london.gov.uk/sites/default/files/aamr_final_process_performance_y2_report_final.pdf; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729224/probation-tables-Q12018.ods

⁵https://www.london.gov.uk/sites/default/files/aamr_final_process_performance_y2_report_final.pdf

Table 2: Estimated AAMR starts by scenario

Scenario	20/21	21/22	22/23	Steady state from 23/24
Low	300	600	1,150	1,750
Best	450	1,150	1,750	2,300
High	600	1,750	2,900	4,050

Note: rounded to the nearest 50.

Costs of Option 1

Monetised costs

29. The following costs have been monetised. As all costs are dependent on the number of AAMR starts and caseload at a given point, they are all highly uncertain.

Electronic monitoring costs

30. Option 1 introduces a new requirement that can be imposed as part of a CO or SSO. The main costs are driven by the electronic monitoring service and equipment used to monitor the AAMR. As used in the AAMR pilots, option 1 involves roll out of continuous transdermal alcohol monitoring and is based on the EMS being contracted to provide the field services to fit and remove tags, carry out cleansing, maintenance and stock control. Tag batteries should last the entire length of the Order.

31. The associated costs include the capital costs of the alcohol monitoring tags and home monitoring units, resource costs of equipment repairs and EMS costs, including field services to fit and remove the tags. These are based on EMS costs as per the business case for 'new world' services, but deflated to exclude monitoring (a 25% reduction is applied) and a tag life of 3 years. A low, high and 'best' estimate have been produced to reflect that the demand for these services are uncertain.

32. The additional electronic monitoring costs are estimated at between £27m and £54m over the 10-year appraisal period, depending on sentencer behaviour. The caseload would take time to reach steady state, and once established electronic monitoring is estimated to cost between £4m and £9m per annum.

HMPPS – Probation Costs

33. A daily report is sent to delegated probation personnel showing any breaches, such as tamper, alcohol or a missed upload. Option 1 is based on probation staff monitoring these reports and taking any action required as a result of alerts. Costs are based on 0.1 FTE of an Administrative Role per Local Delivery Unit (LDU) to perform this additional role, this is based on 136 LDUs.

34. The additional probation costs are estimated at between £3m and £6m over the 10-year appraisal period, depending on volumes. The caseload would take time to reach steady state, and once established is estimated to cost probation between £0.5m and £1m per annum.

HMCTS

35. Non-compliance with AAMR will be responded to in the same way as non-compliance with any other community sentence requirement and may result in breach. Based on the 94% compliance rate in the

London report,⁶ it has been estimated that 6% of AAMRs will be breached, leading to additional breach hearings.

36. Court costs have been estimated, assuming that breach hearings will take 30 minutes and an average sitting day is 4 hours, with hearings equally distributed between the Crown Court and magistrates' courts. On this basis the additional costs to HMCTS are estimated at between £0m and £0.5m over the 10-year appraisal period, depending on volumes.

HMPPS - Prison place costs

37. Unpublished, internal estimates on the proportion of CO/SSO that were terminated as a result of breaches that lead to custody and the average sentence length have been used to estimate the potential impact on prison places. The annual cost per place is based on the annual direct resource cost of a male local prison. Due to the average length of sentence, offenders are most likely to be held in a local prison. As men make up the majority of COs/SSOs, a male local prison cost has been used, whilst recognizing that a proportion of breaches will be by women who would therefore be held in a female local prison that has a slightly higher cost per annum.

38. The additional prison place costs are estimated at between £4m and £9m over the 10-year appraisal period, depending on volumes. The caseload would take time to reach steady state, and once established is estimated to cost HMPPS between £0.5m and £2m per annum.

Legal Aid Agency

39. As with court costs, legal aid costs assume an equal split of breach hearings between magistrates' courts and the Crown Court. High level estimates are included. Legal aid costs in the magistrates' courts are based on the average cost for a legal aid representation order and assume all breach hearings already have a legal aid representation order that would be amended. Likewise, for hearings held in the Crown Court, it is assumed all incur legal aid costs.

40. The additional legal aid costs are estimated at between £0m and £0.5m over the 10-year appraisal period, depending on volumes.

Table 3: Monetised costs for the 'best' estimate

Cost type	Transition (constant prices)	Average annual (from 23/24) (constant prices)	Total (present value)
Electronic monitoring	£11m	£5m	£34m
Probation	£1m	£0.5m	£4m
Court	£0m	£0m	£0m
Prison place	£1m	£1m	£6m
Legal aid	£0m	£0m	£0.5m
TOTAL	£13m	£7m	£44m

Non-monetised costs

41. Other than probation costs for the additional role of monitoring alerts from the tags and breach costs, no other probation or CJS stakeholder costs have been monetised. There may potentially be

⁶ https://www.london.gov.uk/sites/default/files/aamr_final_process_performance_y2_report_final.pdf (based on violations of the tag that led to enforcement action being taken by the Offender Manager that led to a breach conviction at Court). A similar high compliance rate was seen in the HLNy AAMR pilot.

additional costs to probation, such as AAMR being a new factor to consider when conducting pre-sentence reports. These have not been costed as they are uncertain and assumed to be minimal. This is supported by findings from the MOPAC evaluation. Whilst small numbers, 9% (n=28) of stakeholders surveyed agreed with the statement “The AAMR has increased my workload”.

Benefits of Option 1

Monetised Benefits

42. No benefits have been quantified due to the limited evidence on the magnitude of these impacts.

Non-monetised benefits

43. A range of benefits are expected from rolling out AAMR. However, it has not been possible to monetise these due to limited evidence on their magnitude.

44. The expected non-monetised benefits include:

- Improved confidence in responding to alcohol related crime: introducing a new requirement option for COs and SSOs that directly responds to alcohol related offending may improve public confidence in the CJS’ ability to respond to alcohol related crime, particularly given the high compliance rate with the requirement seen in the pilots.
- Reduced crime: where offending is alcohol related, it is reasonable to expect that a period of abstinence may reduce criminal activity and mean fewer victims whilst the offender is monitored.
- Enhanced offender risk management, supervision and support: facts around alcohol use will be helpful to offender managers, enabling them to better manage risk and target support and could reduce the need for other aspects of management, for example home visits. Rehabilitative support to offenders, provided by probation or external organisations, may be more impactful during a period of abstinence.
- Potential prison place savings: whilst not badged as an ‘alternative to custody’, the availability of an AAMR to address alcohol related offending may impact on the court’s decision to impose a SSO with an AAMR where the custody threshold has been reached, which may save prison places.
- Reductions in reoffending. Whilst some US evidence suggests that AAMR may reduce reoffending, these findings may not be transferrable to England and Wales. Impact evaluations from the two pilots in England are not yet available in order to be able to quantify any impact on reoffending. Once findings are available, benefits from any reduction in reoffending will be able to be quantified.
- Wider benefits, including improved health and reduced burden on health services. The total social and economic cost of alcohol related harm is estimated to be £21.5 billion (Public Health England, 2018).⁷ A period of abstinence should reduce these costs, at least whilst the tag is worn. Findings from the MOPAC pilot evaluation showed that offenders were generally optimistic about

⁷ <https://www.gov.uk/government/publications/alcohol-and-drug-prevention-treatment-and-recovery-why-invest/alcohol-and-drug-prevention-treatment-and-recovery-why-invest>

the requirement, and felt that the AAMR had a positive impact on their lives, particularly around their health, wellbeing and offending behaviour.⁸

F. Key assumptions, risk and sensitivity analysis

Assumptions

45. The above analysis is based on a number of assumptions. The key assumptions which underly the analysis are listed below.

Volumes

- The number of alcohol monitoring tags at any point in time, once steady state is achieved, is assumed to be: 400 'best' scenario; 700 high scenario; and 300 low scenario. A phased roll out, with gradual initial take up is assumed, with maximum caseload reached from 2023/24.
- The number of tag starts per year, once in steady state, is assumed to be: 2,300 'best' scenario; 4,050 high scenario; and 1,750 low scenario. This is based on the MOPAC AAMR pilot average of 61 days spent on tag.

Electronic monitoring costs

- A range of assumptions have informed electronic monitoring costs. It is assumed that transition to new world Electronic Monitoring pricing and that EMS unit costs will be as per the business case, deflated to exclude monitoring (25% reduction).
- The caseload rather than starts is assumed to drive capital costs.
- It is assumed there will be no integration required with Electronic Monitoring systems.
- It is assumed that there will be no impact on contract management costs.
- It is assumed that network charges and SIM cost impact is minimal and can be absorbed; and there will be no impact on software charges.
- No increased loss of equipment due to the nature of the cohort or additional replacement due to longer use is assumed.
- A three year asset life is assumed.
- It is assumed that VAT is recoverable on all costs other than tags / Home Monitoring Units.
- A £6.70 per subject per day average is assumed from the pilot and is used to derive daily monitoring cost.

Probation costs

- It is assumed that a 0.1 FTE of an Administrative Role per Local Delivery Unit would be needed to perform the additional role of monitoring alerts from tags at a monthly cost of £2,975 (London).

Breach

- It is assumed 6% of orders will result in a breach and court breach hearing, that will be equally distributed between the Crown Court and magistrates' courts. This is based on the high compliance rate seen in both pilots in England. In terms of court time, it is assumed that breach hearings will take 30 minutes and an average sitting day is 4 hours.
- It is assumed that the proportion of AAMR breaches that lead to a custodial sentence and average sentence length are the same as for COs and SSOs as a whole (based on unpublished, internal estimates). Based on the MOPAC pilot, it has been assumed that 75% of AAMR starts are part of a CO and 25% a SSO, as breach outcomes vary by the type of sentence.

⁸https://www.london.gov.uk/sites/default/files/aamr_final_process_performance_y2_report_final.pdf

- It is also assumed that the costs of a male local prison are the most appropriate prison cost to use due to the average estimated length of sentence and men making up the majority of COs/SSOs.
- Legal aid costs at magistrates' courts assumes all breach hearings already have a legal aid representation order that would be amended and assumes the average cost for a legal aid representation order in a magistrates' court which is £420 including VAT (2018/19).
- Legal aid costs at the Crown Court also assume all breach hearings incur legal aid costs, at a cost of £225 including VAT.

Risks and Sensitivity Analysis

46. The analysis in this IA has a very high degree of uncertainty because it is heavily based on assumptions where there is limited information, in particular about how sentencing behaviour might change if AAMR were rolled out, including potential changes in the combination of requirements given.
47. As all costs are highly dependent on the number of AAMR starts and maximum caseload at any given point, the main risk is in the actual numbers seen if AAMR is rolled out. As we do not have data on how many offences sentenced at courts are alcohol-related and will be eligible for AAMR, including offenders excluded due to being dependent, we have provided a low, 'best' and high scenario of caseload volumes based on previous experience with electronic monitoring and the London pilot. However, estimates are highly dependent on the number of offenders meeting the eligibility criteria and sentencing decisions. As a new option to address alcohol related crime, with a clear purpose and role, and with compliance monitored and a high compliance rate seen in the pilots, AAMR may prove popular with sentencers.
48. The caseload at any given point is dependent on the number of offenders sentenced to AAMR as part of a CO or SSO and the length of AAMR given. As an example, an additional 100 Orders at a given point, representing an additional 600 AAMR starts per year, would cost an estimated £1m per year in steady state.⁹
49. The estimated number of starts achieved, given the estimated caseload, is dependent on the average length of Order (a maximum of 120 days). The length of Order used for the estimates provided above is based on the MOPAC pilot which saw an average of 61 days. Table 4 shows sensitivity analysis on how differences in average Order length would impact on the number of starts required to achieve the maximum caseload estimated for the low, 'best' and high scenarios used, once steady state is achieved. The highlighted line shows what has been costed for the impact assessment. If the average length is less than 61 days, then a greater number of AAMR starts is required to make full use of the amount of electronic monitoring equipment, otherwise there is a risk that purchased equipment is not used. If the average is greater than 61 days, then there is a risk that there may not be enough equipment should the number of starts reflect those used in our costed estimates.
50. A higher ratio of starts to caseload could result in minor additional resourcing requirements for field and monitoring, however these would not be expected to be significant.
51. These risks will be mitigated to an extent by guidance to decision makers that ensures that the AAMR is well targeted and a necessary and proportionate response to the offence committed and not used in addition to the existing sentences, for drink driving for example, unless justified.

⁹ As with all costs, a 20% optimism bias is applied. This cost is not in real terms as the amount of discount would depend on which year costs were incurred in.

Table 4: Sensitivity analysis on AAMR starts by average Order length

Average AAMR length	AAMR starts by scenario caseload		
	Low (300 caseload)	Best (400 caseload)	High (700 caseload)
45 days	2,400	3,150	5,550
61 days	1,750	2,300	4,050
75 days	1,400	1,900	3,300

G. Wider Impacts

One in, Three out and Business Impact Target

52. The proposals do not meet the definition set out under the Small Business Enterprise and Employment Act 2015. The proposal is not in scope of 'One-in, Three-Out'.

Direct Costs and Benefits to Business

53. There are no direct costs or benefits to business.

Small and Medium Enterprises

54. The policy proposals present no burdens on small and medium enterprises. The potential reduction in legal aid work is described above.

Equalities Impact Assessment

55. A separate Equalities Statement has been produced.

Environmental Impact Assessment

56. No environmental impacts have been identified.

Family Impact Test

57. There is no significant impact on families.

H. Implementation

58. The MoJ will set up a project team to commence the implementation of this new electronic monitoring disposal. Implementation will reflect lessons learned from the AAMR pilots in London and HLNy and from the recent introduction and roll out of GPS enabled location monitoring. Governance, analysis and assurance around operational effectiveness and integration across all relevant stakeholders will be embedded from the start of the project.

59. Roll out of AAMR is to be incremental and scheduled to begin in Q3 (Oct – Dec) 2020.

60. A full implementation plan will be drawn up by the project team and this will be scrutinised and signed off through the existing, relevant governance structures.