

Title: Updated Impact Assessment for the Offender Rehabilitation Bill IA No: Lead department or agency: Ministry of Justice Other departments or agencies: NOMS	Impact Assessment (IA)
	Date: 20/06/2013
	Stage: Legislation
	Source of intervention: Domestic
	Type of measure: Primary legislation
Contact for enquiries: sppucorrespondence@justice.gsi.gov.uk	

Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
--	--

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
Not quantified	N/A	N/A	No N/A

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

The sentencing and offender management frameworks serve a number of purposes: to punish offenders, to support them to reform, to protect the public from further harm caused by re-offending, and to provide reparation to victims and others affected by crime. Whilst there is much that the system does well, it is failing in one of its primary purposes: to prevent further offending. In particular, more than half of adult offenders released in 2010 after serving custodial sentences of less than 12 months re-offended within a year. The majority of these offenders are not currently managed in the community after release. Drug dependency and mental health issues appear to be particularly prevalent amongst these offenders, and very few find employment in the weeks after their release from custody. The National Audit Office has estimated that the cost of crime committed by offenders released from short prison sentences is around £7bn–£10bn per year.

What are the policy objectives and the intended effects?

The provisions in the Offender Rehabilitation Bill aim to address high re-offending rates, particularly amongst offenders released from short custodial sentences of less than 12 months, but also amongst offenders serving other types of sentence.

Provisions in the Bill will extend licence after release to include offenders sentenced to short custodial sentences, with the aim of reducing the high re-offending rates of these offenders. The Bill will also introduce a new supervision period for the purposes of rehabilitation for this group of offenders, along with those serving sentences of 12 months or more but less than 2 years. When added to licence, this supervision period will mean both groups will be subject to at least 12 months of statutory rehabilitation after release.

Other provisions in the Bill will create a new drug appointments requirement that can be imposed as a licence or supervision requirement, and expand the scope of drug testing after release to include Class B drugs. The Bill also introduces greater flexibility for some community order and suspended sentence order requirements, to encourage innovation amongst organisations providing services to offenders in responding to the needs of those serving these sentences.

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

Option 0

Retain unconditional release of offenders serving custodial sentences of less than 12 months. It will be up to local partnerships or agencies, such as Integrated Offender Management services, to decide whether to provide additional support for these offenders.

Option 1

Legislate to take forward the following reforms:

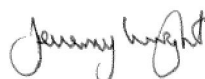
- Extending rehabilitative provision to more offenders after release from custody;
- Extending drug testing to Class B drugs and require offenders to attend drug appointments after release where appropriate;
- Increasing flexibility in delivery of non-custodial sentences.

Will the policy be reviewed? The Government will closely monitor the impact of the Bill's provisions on sentencing practice, non-compliance and sanctions. The Bill's provisions will be subject to post-legislative scrutiny in keeping with normal practice (with the Government submitting a memorandum to the Justice Select Committee in the usual way).

If applicable, set review date: The impact of the Bill's provisions will be assessed on a quarterly basis as part of publication of relevant sentencing and offender management statistics. Post-legislative scrutiny will take place between 3 to 5 years after Royal Assent.

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 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/Q	Non-traded: N/Q	

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: 20/06/13

Summary: Analysis & Evidence

Policy Option 1

Description: Offender Rehabilitation Bill

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/Q	High: N/Q	Best Estimate: N/Q

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Not quantified	£12m	Not quantified
High	Not quantified	£48m	Not quantified
Best Estimate	Not quantified	£33m	Not quantified

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

Our best estimate is that there could be a cost of around £27m per year associated with breaches of licence and supervision conditions for offenders released after serving sentences of less than 12 months (and additional breaches from extending the supervision period for offenders released after serving custodial sentences of 12 months or more but less than 2 years). Our low estimate is a cost of £6m per year, and our high estimate is £42m per year.

There will also be an additional burden to the police, as police time will be needed to deal with offenders who fail to comply with the conditions of supervision. Our initial estimate is that this could cost up to £5m per year.

There will be costs associated with extending drug testing to Class B drugs, and costs associated with sanctions if offenders fail to comply. The costs will be dependent on the number of offenders that probation providers choose to test. However, we estimate that the costs of sanctions could be in the order of £1m per year.

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

There will be a cost of providing rehabilitative services to offenders released from custodial sentences of less than 12 months (and for extending the supervision period for offenders released after serving custodial sentences of 12 months or more but less than 2 years). The Ministry of Justice has undertaken detailed modelling of the likely costs. However, it would be inappropriate to release these costs, as they will be dependent on the outcome of competing offender services in the community. If we were to publish an estimated figure for the future costs this could put contractual negotiations at risk and prejudice the effectiveness of the competition.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	Not quantified	Not quantified	Not quantified

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

N/A

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

We expect that extending licences to short sentenced offenders and increasing flexibility for certain community order and suspended sentence order requirements will lead to reduced re-offending and a reduction in the number of offenders who return to the system. This has the potential to cut prison and probation costs, reduce court backlogs and allow for savings on legal aid provision. There is also the potential for reduced social costs associated with re-offending behaviour, as crime imposes costs on society - notably the physical, emotional and financial impact on victims.

Key assumptions/sensitivities/risks	Discount rate (%)	N/A
-------------------------------------	-------------------	-----

In estimating breach costs, we have made a number of assumptions about likely breach numbers, and how courts will respond. These are based on factors that influence breach of licence conditions for offenders released from sentences of 12 months or more (taking into account how they may differ for offenders serving sentences of less than 12 months, given the differences between these two groups).

It is not our intention that extending licences and supervision to offenders released from short custodial sentences should impact on the type of sentences imposed by the courts. However, there is a risk that these changes could lead to changes in sentencer behaviour, and we have considered the impact of scenarios for possible changes on the prison population.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:				In scope of OIOO?	Measure qualifies as
Costs:	N/A	Benefits:	N/A	Net:	N/A
				No	N/A

Evidence Base

- The proposals in the Bill will impact on 4 groups of offenders:
 - Offenders sentenced to custodial sentences of less than 12 months, as we intend to extend rehabilitative provision to these offenders.
 - Offenders sentenced to custodial sentences of 12 months or more but less than 2 years, as we intend to extend the duration of their rehabilitative provision.
 - Offenders released from custody whose criminal behaviour is related to the misuse of drugs, as we intend to extend drug testing to Class B drugs and require offenders to attend drug appointments after release where appropriate.
 - Offenders serving community orders and suspended sentences, as we intend to increase the flexibility of various requirements available under these sentences.

Custodial sentences of less than 12 months

- In 2011/12, around 50,000 adult offenders were released from prison after serving custodial sentences of less than 12 months^{1,2}. The majority of these offenders are not managed in the community after release.
- 57.6% of adult offenders sentenced to less than 12 months' immediate custody and released in 2010 re-offended within one year, with 17,560 re-offenders committing 83,107 further offences³.
- Drug dependency and mental health issues appear to be particularly prevalent amongst short sentenced prisoners. A 2005/06 study showed that 33% of prisoners serving custodial sentences of less than 12 months self-reported as having a drug problem and 21% as having a mental health or emotional problem. 40% of these offenders said they needed help to improve their education, and 39% that they needed help to improve their work-related skills⁴.
- For all offenders released from custodial sentences (of any length) in 2008, only 10% were in P45 employment at any point during the 13 weeks following their release, with 48% claiming out-of-work benefits in the same period. For the same offenders, two years after release from custody, only 29% had been in P45 employment, and 75% had claimed out of work benefits⁵.

¹ Offender management caseload statistics quarterly publication, Ministry of Justice
² This figure includes offenders released from court after serving their sentence on remand. Note that these volumes do not refer to unique offenders, as some offenders begin multiple sentences each year.
³ Proven re-offending statistics quarterly publication, Ministry of Justice
⁴ Results from the Surveying Prisoner Crime Reduction (SPCR) survey, Ministry of Justice, 2012
⁵ Offending, employment and benefits – emerging findings from the data linkage project, Ministry of Justice, 2011. Employment data is from HMRC's P45 data. P45 employment spells often have estimated start or end dates. . In addition, P45 employment spells do not usually record

6. Almost half (47%) of the prison population given a custodial sentence of less than 12 months in 2011 had 15 or more previous convictions or cautions. Only 6% had no previous convictions or cautions¹.

Custodial sentences of 12 months or more but less than 2 years

7. In 2011/12, around 15,000 adult offenders were released from prison after serving custodial sentences of 12 months or more but less than 2 years¹. These offenders are managed in the community after release, for a length of time equal to approximately half their sentence length.
8. 37.9% of adult offenders sentenced to determinate custodial sentences of 12 months or more but less than 2 years, and released in the year ending March 2011, re-offended within a year, with 4,442 re-offenders committing 14,360 further offences³.
9. Characteristics such as homelessness, drug and alcohol dependency, mental illness and unemployment are common amongst these offenders. A study in 2005/06 showed that 19% of prisoners serving custodial sentences of 12 months or more but less than 2 years self-reported as having a drug problem and 15% as having a mental health or emotional problem. 40% of these offenders said they needed help to improve their education, and 39% that they needed help to improve their work-related skills⁴.

Misuse of drugs by offenders

10. Around two-thirds (64%) of prisoners surveyed for a 2005/06 study had ever used Class A drugs, and nearly three-quarters (74%) reported ever having used Class B and/or Class C drugs⁶.
11. Figure 1 shows the proportion of surveyed prisoners who reported that they had ever used different types of drugs. Cannabis was the most frequently reported drug, with 71% of prisoners reporting having ever used the drug. Of these prisoners, 77% reported using cannabis in the year before custody, and of these, 85% (or 46% of all prisoners surveyed) reported using it in the four weeks before custody⁶.

Figure 1: Proportion of prisoners who reported ever using drugs, 2005/06

Drug	Proportion of surveyed prisoners who have ever used this drug
Cannabis	71%
Cocaine	45%
Crack cocaine	43%
Ecstasy	42%
Amphetamines	41%
Heroin	40%
LSD	29%
Unprescribed tranquilizers	28%
Unprescribed methadone	20%

Source: *Surveying Prisoner Crime Reduction (SPCR)*⁶

12. The 2005/06 study found that drug use amongst the surveyed prisoners has been found to be strongly associated with reconviction on release, with the rate of reconviction more than doubling for prisoners who reported using drugs in the four weeks before custody compared with prisoners who

employment paid at levels below tax thresholds, self-employment or cash-in-hand informal economy work. Therefore care must be taken in interpreting findings relating to employment outcomes.

⁶ Gender differences in substance misuse and mental health amongst prisoners, Ministry of Justice, March 2013.

had never used drugs (62% compared with 30%)⁷. Figure 2 shows the association between reconviction in the year after release from custody and class of drug use in the month before custody.

Figure 2: Association between reconviction in the year after release from custody and class of drug use in the month before custody, 2005/06

Response	Percentage reconvicted
Poly-drug user in last month ⁸	71%
Class A only in last month	61%
Class B and/or C (but not Class A) in last month	48%
No drugs in last month, but had previously used drugs	39%
Never used drugs	30%

Source: *Surveying Prisoner Crime Reduction (SPCR)*⁷

Community orders and suspended sentence orders

13. In 2011/12, around 200,000 adult offenders began community orders or suspended sentence orders^{1,9}.
14. 34.1% of adult offenders who began a community order or suspended sentence order in the year ending December 2010 re-offended within one year, with 49,636 re-offenders committing 157,796 offences³.
15. Offenders serving community orders and suspended sentence orders can have complex needs. According to a study of offenders serving community orders, 23% of these offenders believed they needed help with a mental health condition, 19% believed they needed help with their alcohol usage and 23% believed they needed help with their drug usage¹⁰. This study only surveyed offenders on NOMS management tiers 2-4^{11,12}.
16. In the four weeks before being surveyed 69% of the offenders surveyed reported having received benefits and of those, half had claimed out of work benefits i.e. jobseeker's allowance or unemployment benefit¹².
17. Around four fifths (78%) of the offenders surveyed reported ever having taken drugs, Figure 3 shows the proportion of surveyed offenders serving community orders who reported that they had ever taken different types of drugs. Cannabis was the most frequently reported drug, with 71% of offenders reporting having ever used the drug. In the 12 months before being surveyed, half reported using cannabis. Just over a third (37%) of offenders said they had used drugs in the four weeks prior

⁷ Ministry of Justice Compendium of re-offending statistics and analysis (November 2010) Chapter five: Surveying Prisoner Crime Reduction

⁸ A poly-drug user is defined as one who used Class A drugs and Class B drugs, or Class A and Class C, or Class A and Class B and Class C drugs

⁹ Note that these volumes do not refer to unique offenders, as some offenders begin multiple sentences each year. This figure includes the offenders starting probation monitored community and suspended sentence (Offender management caseload statistics quarterly publication, Ministry of Justice) as well as offenders who began contractor monitored stand-alone curfews.

¹⁰ The Offender Management Community Cohort Study (OMCCS) is a longitudinal study which tracks a cohort of adult offenders who commenced a community order between October 2009 and December 2010. The findings presented here are based on the OMCCS survey; a total of 2,919 interviews were achieved at the 'start of order' baseline interviews, representing a response rate of 44 per cent. The results have been weighted to be nationally representative for offenders at NOMS management tier 2 and above. The survey results presented here have not undergone significance testing.

¹¹ A system of 'tiering' of offenders is used to identify levels of resource to be directed towards offenders, Offenders are assigned to one of four 'tiers' during their management by the National Offender Management Service, based on a number of factors including their risk of re-offending, with the aim of directing appropriate resource towards them. Tier 1 is the lowest level, where the aim is largely punishment, whilst substantial management is required of Tier 4 offenders with the aim of controlling risk.

¹² Results from the Offender Management Community Cohort Study (OMCCS): Assessment and sentence planning, Ministry of Justice, June 2013

to their interview, 26% had used cannabis, 5% had used cocaine powder and 9% had used heroin^{12,13}.

Figure 3: Proportion of offenders serving community orders who reported ever taking drugs

Drug	Proportion of surveyed offenders who reported ever taking this drug
Cannabis	71%
Cocaine powder	47%
Ecstasy	39%
Amphetamines	35%
Crack cocaine	28%
Hallucinogens	28%
Heroin	26%
Benzos	23%
Other opiates	19%
Solvents	18%
Methadone	16%
Another drug not previously mentioned	6%
None of these	22%

Source: Offender Management Community Cohort Study (OMCCS)¹²

18. Figure 4 shows the range of criminogenic needs measured in OASys for those offenders who started community orders¹⁴. Of those offenders who were assessed as having an OASys need, 'relationships' were the most commonly identified need (61%), with needs related to 'thinking and behaviour', 'education, training and employment' (ETE) and 'lifestyle and associates' identified for a similar proportion of offenders¹⁵. A third (32%) of offenders identified as having a drug misuse need. Just over half (55%) of all offenders had no criminogenic needs identified (20% were assessed as having no needs and the remaining 35% did not have an OASys assessment recorded).¹⁶

Figure 4: Proportion of offenders serving community orders with criminogenic needs identified in OASys

Type of need	Need identified (of those assessed on measure)
Relationships	61%
ETE	59%
Thinking and behaviour	59%
Lifestyle and associates	58%
Attitudes	51%
Accommodation	38%
Alcohol misuse	38%
Drug misuse	32%

Source: Offender Management Community Cohort Study (OMCCS)¹²

¹³ The figures presented here on types of drugs used in the 4 weeks prior to interview differ to those published in the 'Offender Manager Community Cohort Study (OMCCS): wave 1 questionnaire tables'; the base for this analysis includes offenders who said they had not taken any drugs in the last 12 months. The figures in the 'Offender Manager Community Cohort Study (OMCCS): wave 1 questionnaire tables' exclude those who had not taken drugs in the last 12 months.

¹⁴ The Offender Assessment System (OASys) is a risk assessment and management system used by Offender Managers. It uses static factors (e.g. criminal history, demographics), dynamic factors (e.g. accommodation, drug use), risk of serious harm, sentence and risk management planning and an offender questionnaire to ensure that resources are allocated effectively. The full OASys assessment scores 8 'criminogenic needs'. An offender has an OASys identified need if their score for that need exceeds a designated cut-off point. Just under two-thirds (65%) of the OMCCS cohort starting community orders received an assessment that was recorded in OASys.

¹⁵ Offenders with a 'thinking and behaviour' need had problems such as difficulties recognising the consequences of their actions. A 'lifestyle and associates' need included problems being easily influenced by criminal associates and risk-taking behaviour.

¹⁶ These figures from the OMCCS are based on OASys administrative data that was collected as part of the study. These figures cover all offenders who commenced a community order between October 2009 and December 2010, including Tier 1 offenders (who are excluded from the survey element of the study).

Impact Assessment

Introduction

19. The reforms contained in the Offender Rehabilitation Bill seek to address high re-offending rates and to allow for increased efficiency and value for money in the delivery of services to offenders in the community.

Organisations and groups in scope of these proposals

20. The main groups affected by these proposals are:

- Ministry of Justice
- National Offender Management Service (“NOMS”)
- Probation providers
- HM Courts & Tribunals Service (“HMCTS”)
- Police forces
- Offenders
- Victims
- Other Government Departments

Option 0 – do nothing: maintain the current sentencing and release structure

21. Maintaining the current lack of provision for short sentenced offenders would be unlikely to achieve reductions in their high re-offending rates. Maintaining the current framework for community orders and suspended sentence orders may not give providers full flexibility to innovate in delivering reductions in re-offending.

Option 1

22. We propose to take forward the following reforms:

- Extending rehabilitative provision to short sentenced offenders, so that they are supervised in the community following their release from custody.
- Extending drug testing to Class B drugs and requiring offenders to attend drug appointments.
- Increasing flexibility in the delivery of community orders and suspended sentence orders, by combining the supervision and activity requirements into a single, rehabilitative requirement.

Extending rehabilitative provision to offenders released from short custodial sentences

Aims and outcomes for the policy

23. To reduce the re-offending of offenders released from short custodial sentences by extending the scope of rehabilitative services to cover these offenders. There is a disparity in the current system, as the group of offenders with the highest re-offending rates have no mandatory supervision after release. Some offenders will, and do, engage voluntarily. Nevertheless, mandation can support higher rates of engagement. This is a challenging group of offenders with a diverse range of criminogenic needs. We know that semi-coercive approaches to address the underlying drivers of offending can be successful in improving levels of engagement¹⁷.

Costs

24. As detailed in paragraph 2, there are around 50,000 adult offenders released from prison after serving custodial sentences of less than 12 months, the majority of which are not managed in the

¹⁷ Skodbo et al (2007) *The Drug Interventions Programme (DIP): addressing drug use and offending through ‘Tough Choices’*

community after release. There will be a significant additional cost to extend supervision to these offenders. We have undertaken detailed modelling and are confident that we have a good understanding of the likely costs and impacts. However, it would be inappropriate to release these costs, as they will be dependent on the outcome of competing offender services in the community. If we were to publish a figure for the future costs this would give organisations bidding for contracts a target and would prejudice the effectiveness of the competition. For that reason, this impact assessment only contains volumes of offenders that will be affected.

25. There will be court costs associated with breaches of this provision, and costs of providing sanctions for these breaches. These latter costs could include additional pressure on the prison population arising out of offenders being recalled to custody, and further electronic monitoring and unpaid work starts.
26. Our initial estimates of the costs of breach for offenders released from custodial sentences of less than 12 months are between £5m and £39m per year, with a best estimate of £24m per year.
27. In 2012, there were 16,500 offenders¹⁸ recalled to prison from licence after release from custodial sentences of 12 months or longer. In order to estimate the cost of breach for offenders released after serving custodial sentences of less than 12 months, we have considered the various factors that influence breach, and we have made assumptions about how these factors may differ between these offenders and offenders released from custodial sentences of 12 months or longer.
28. The factors that we consider to have the most impact on the number of breaches are:
 - Number of offenders: there are around 50,000 offenders released after serving custodial sentences of less than 12 months, as compared to around 40,000 released after serving 12 months or more. This means that 30% more offenders are released after serving less than 12 months than 12 months or more. We therefore consider that this would result in a potential for approximately 30% more breaches for offenders released after serving custodial sentences of less than 12 months. We have used this ratio for all our estimates.
 - Supervision period: the longer that an offender is subject to supervision in the community, the greater the number of potential breaches. After taking into account the fact that some offenders will not complete their full supervision period, due to conviction for a further offence, our best estimate is that offenders released after serving custodial sentences of less than 12 months are subject to 85% of the length of supervision offenders, when compared to offenders released after serving 12 months or more. Our lowest estimate is 70%, and our highest is 90%.
 - Offender behaviour: this is a measure of the likelihood that offenders' behaviour will result in a breach. The evidence base suggests that offenders released after serving custodial sentences of less than 12 months are more likely to be petty offenders, more likely to have drug-related issues, more likely to be unemployed and in general more likely lead more chaotic lives. In absolute terms this difference is difficult to quantify, but our best estimate is that offenders released after serving custodial sentences of less than 12 months are, for behavioural reasons, 35% more likely to breach than offenders released after serving 12 months or more. Our lowest estimate is that they are 10% less likely to breach, and the highest estimate that they are 50% more likely to breach.
 - How restrictive supervision conditions are: we consider that the more restrictive the conditions imposed on an offender, the more likely the offender is to breach. Again this is difficult to quantify in absolute terms, but we consider that offenders released after serving custodial sentences of less than 12 months are less likely to have restrictions related to public protection issues, although the introduction of mandatory class B drug testing could provide evidence to prove a greater number of breaches of post-release conditions. Taking this into account, our best

¹⁸ Note that these volumes do not refer to unique offenders, as some offenders begin multiple recalls each year

estimate is that the relative severity of conditions for offenders released after serving custodial sentences of less than 12 months will result in a 10% increase in the likelihood of breach, as compared to the current offenders released after serving 12 months or more. Our lowest estimate is that they will result in these offenders being 10% less likely to breach, and the highest estimate that they are 20% more likely.

- Likelihood of the probation service prosecuting breach: prosecuting alleged breaches of supervision requirements will be reserved to public sector probation staff, who will have discretion as to whether to lay information before a court or not. We have assumed that probation staff will not always choose to take breaches to court, as we consider that offenders released after serving custodial sentences of less than 12 months will not present the same level of public protection issues as offenders serving longer sentences. Our best estimate is that offender managers are approximately 40% less likely to breach these offenders for public protection purposes when compared to the over 12 month cohort. Our lowest estimate is that they are 60% less likely to prosecute breaches, and our highest estimate is that they are 25% less likely to prosecute breaches.

29. We have assumed that all of the above factors equally impact the overall volume of breaches. Combining these factors gives a best estimate of around 17,000 breaches by offenders released after serving 12 months or more. Our lowest estimate for the number of breaches is around 5,000, and our highest around 26,000.

30. Figure 5 shows the best estimate for the factors that we consider could have the most impact on breach costs, along with the low and high estimates, and the number of breaches.

Figure 5: factors that we consider to have the most impact on the number of breaches, and the number of breaches

	Relative value for offenders released after serving custodial sentences of less than 12 months as compared to offenders released after serving 12 months or more		
Factors that impact on number of breaches	Low estimate	Best estimate	High estimate
Number of offenders	130%	130%	130%
Supervision Time	70%	85%	90%
Behaviour of offenders	90%	135%	150%
Severity of conditions	90%	110%	120%
OM likelihood to prosecute breaches	40%	60%	75%
	Number of breaches		
Number of breaches	5,000	17,000	26,000

31. To estimate the cost of breaches by offenders released after serving 12 months or more, we also need to consider what sanctions will be imposed on them. We consider the following to have the most impact on the sanctions imposed on breach:

- Whether the breach is in the licence period: breaches of licence are dealt with in a different way to breaches of the supervision period proposed by the Bill. In the licence period, the only sanction for breach is recall to custody, either for a 2 week fixed term or for the remainder of the offender's sentence. Based on the average time spent on licence for offenders released after serving custodial sentences of more than 12 months, we estimate that 20% of breaches by offenders serving sentences of less than 12 months will occur in the licence period. We have used this ratio for all our estimates. The remaining 80% of breaches will occur during the supervision period, during which an offender will be returned to court for magistrates to decide on whether a breach has taken place, and to impose any sanction they decide is appropriate.

- Likelihood of sanction: this is the probability that magistrates will find that there has been a breach without reasonable excuse and impose a sanction. Although magistrates will have the option not to impose any sanction, our best estimate is that they will impose a sanction on 100% of offenders who breach their extended supervision. Our low estimate is 90%, and our high estimate is also 100%.
 - Type of sanction imposed: there will be four sanctions available to magistrates for breach of extended supervision. These are fines, unpaid work, an electronically monitored curfew, and committal to custody for up to 2 weeks. Our best estimate is that 70% of sanctions imposed following breach of extended supervision will be committal to custody for 2 weeks, 20% will be electronically monitored curfews lasting an average of 50 days, and 10% will be an average of 35 hours of unpaid work. The low estimate is that 30% will result in committal to custody for 2 weeks, 40% will be curfews lasting 20 days and 30% will get 20 hours of unpaid work. The high estimate is 80% will result in committal to custody for 2 weeks, 15% will be curfews lasting 60 days and 5% will be 40 hours of unpaid work. We do not consider that magistrates will impose a fine on many offenders, but the costs of sanctions could be lower if they do.
 - Cost of sanctions: We estimate the cost of a 2 week committal to custody of around £1,000. For an electronically monitored curfew and for unpaid work the costs will be determined by the volume of starts and the average duration. In addition there will be the costs of bringing a breach to court. Our range of estimates for the volume of starts, their average duration and the total cost for each type of sanction are detailed in Figure 6 below.
32. Combining these factors gives a best estimate of around 13,000 offenders recalled or committed to custody, giving a prison place increase of around 600 additional places, at a cost of £16m per year. We estimate there would be around 3,000 offenders given electronically monitored curfews, at a cost of £2m per year, and around 1,000 offenders given unpaid work, at a cost of less than £1m per year. There would be around 14,000 offenders returned to court at a cost of £6m per year. This gives a best estimate of the cost of breach for offenders released after serving custodial sentences of less than 12 months of £24m per year.
33. The low estimate of the cost of breach for offenders released after serving custodial sentences of less than 12 months is £5m per year, including an increase in the prison population of 100 places. The high estimate is £39m per year, including an increase in the prison population of 900 places.
34. We have estimated the cost for breach of the additional time served on the extended supervision period by offenders released after serving custodial sentences of 12 months or more but less than 2 years to be 10% of the cost of breach for offenders released after serving custodial sentences of less than 12 months. Our best estimate for this cost is £2m per year, our low estimate is £1m per year, and our high estimate is £4m per year.
35. The 10% figure is based on the following assumptions:
- There are around 15,000 offenders released each year after serving custodial sentences of 12 months or more but less than 2 years, as compared to around 50,000 offenders released after serving custodial sentences of less than 12 months. The ratio of offenders released after serving custodial sentences of 12 months or more but less than 2 years to offenders released after serving custodial sentences of less than 12 months is therefore 30%.
 - The average additional time spent on supervision by offenders released after serving custodial sentences of 12 months or more but less than 2 years will be around 4 months, as compared to 12 months for offenders released after serving custodial sentences of less than 12 months. The ratio of increased supervision time for offenders released after serving custodial sentences of 12 months or more but less than 2 years to offenders released after serving custodial sentences of less than 12 months is therefore one third.
 - Combining these two ratios gives an estimate of the additional cost of breach of 10%.

36. Figure 6 shows the best estimate for the factors that we consider to have the most impact on sanction costs, along with the low and high estimates, the total number of sanctions given, and the costs of sanctions.

Figure 6: factors that we consider to have the most impact on sanction costs and the number of sanctions

Factors that impact on cost of sanctions for breach	Low estimate	Best estimate	High estimate
Proportion of breaches that are during licence period	20%	20%	20%
Judicial likelihood of sanction	90%	100%	100%
Type and duration of sanction imposed			
Unpaid work	30%	10%	5%
Electronic monitoring	40%	20%	15%
Recall/committal	30%	70%	80%
Average length of electronic monitoring (days)	20	50	60
Average length of unpaid work (hours)	20	35	40
Length of committal to custody (weeks)	2	2	2
Numbers of sanctions			
Total number of recalls/committals	2,000	13,000	22,000
Total number of EM starts	1,000	3,000	3,000
Total number of unpaid work starts	1,000	1,000	1,000
Recall/committal prison places	100	600	900
Costs of sanctions			
Recall/committal costs	£3m	£16m	£26m
EM costs	£1m	£2m	£3m
Unpaid work costs	<£1m	£1m	<£1m
Court costs	£2m	£6m	£9m
Costs of breaches of supervision for offenders released after serving custodial sentences of less than 12 months			
	£5m	£24m	£39m
Costs of additional breaches of supervision for offenders released after serving custodial sentences of 12 months or more, but less than 2 years	£1m	£2m	£4m
Total cost of additional breaches of supervision for all offenders released from custodial sentences of less than 2 years	£6m	£27m	£42m

37. There may be an additional burden to the police from extending supervision in the community to offenders released from custodial sentences of less than 12 months, as police time will be needed to deal with offenders breaching the conditions of supervision.

38. An NPIA report¹⁹ gives the average time spent by police inside the station on an arrest as around 2.5 hours. The Home Office estimate that there is a unit cost of £33 per hour for a police sergeant's time. This gives the unit cost to police of dealing with an offender who has breached their conditions as around £100. However, this figure does not take into account the additional cost of time spent outside the station, and the increase in the cost of the police's time if the breach was dealt with by a higher ranking officer.

¹⁹ An observational study of response and neighbourhood officers, NPIA, 2011.

39. Using our high estimate of the number of breaches, we therefore estimate that the cost to the police of dealing with offenders breaching the conditions of supervision could be up to £5m per year.
40. We will work closely with Home Office colleagues to monitor the impact on police resources with a view to handling the costs under the terms of the trade agreement.

Benefits

41. Our proposals are about extending rehabilitation to those who need it, so that providers can tackle offenders' broader life management needs, for example by helping them to find accommodation, to access training, employment and other public services, to address their attitudes, thinking and behaviour, and to connect them to mental health and drug and alcohol rehabilitation programmes. Offenders have a range of complex needs and there is evidence to suggest that an active 'offender centric' life management approach works.
42. Internal analysis suggests that when differences between certain types of offenders are controlled for, those subject to a supervision licence have lower re-offending rates than those released without support. This suggests that extending supervision to offenders released after serving custodial sentences of less than 12 months will help to reduce re-offending by these offenders.
43. There is also the potential for reduced social costs associated with re-offending behaviour as crime imposes costs on society, notably the physical, emotional and financial impact on victims. The National Audit Office have estimated the cost of re-offending by recently released short sentenced ex-prisoners as being somewhere between £7 billion and £10 billion²⁰.
44. We want to see offenders desist completely from crime, to reduce the number of offenders who return to the system. This has the potential to cut prison and probation costs, reduce court backlogs and allow for savings on legal aid provision.

Risks

45. There is a risk that the changes to custodial sentences of less than 12 months could lead to changes in sentencer behaviour. We have considered three scenarios for possible changes in sentencer behaviour, following the introduction of post-release supervision for offenders sentenced to custody of less than 12 months:
- Scenario 1: sentencers down-tariff short custodial sentences to community orders. We estimate that this would reduce the demand for prison places by around 500.
 - Scenario 2: sentencers reduce custodial sentence lengths. We estimate that this would reduce the demand for prison places by around 600.
 - Scenario 3: sentencers up-tariff sentences served in the community to short custodial sentences. We estimate that this would increase the demand for prison places by around 800.
46. Whilst we have undertaken detailed modelling of the likely costs if these scenarios were to occur, we are not in a position to release these costs. This is because they are dependent on the future cost of delivering sentences served in the community and post-release supervision, and therefore they will be dependent on the outcome of competing offender services in the community. If we were to predict a figure for these future costs, this would give organisations bidding for contracts a target and would prejudice the effectiveness of the competition.
47. Scenario 1: sentencers down-tariff short custodial sentences to community orders. Extending supervision for short custodial sentences could mean that sentencers perceive them as more severe.

²⁰ Managing offenders on short custodial sentences, NAO, 2010.

This could mean that offenders currently given short custodial sentences are instead given community orders. We assume that sentencers down-tariff 50% of offenders sentenced to less than 1 month custody, and 25% of offenders sentenced to 1 to less than 3 months custody to community orders. This would mean around 6,000 offenders were down-tariffed to community orders, resulting in around 500 fewer prison places. There would be an additional saving in the provision of post-release supervision for these offenders, which would be off-set to some extent by the provision of community orders.

48. Scenario 2: sentencers reduce custodial sentence lengths. Extending supervision for short custodial sentences could mean that sentencers perceive them as more severe, this could lead to sentencers reducing custodial sentence lengths. We assume that sentencers reduce sentence lengths for offenders sentenced to less than one year by an average of 5% and for offenders sentenced to one year to less than 2 years by an average of 2%. This would result in around 600 fewer prison places.
49. Scenario 3: sentencers up-tariff sentences served in the community to short custodial sentences. As short custodial sentences would include a period of rehabilitation in the community, sentencers could consider them suitable for a wider group of offenders. This could lead to up-tariffing of community orders or suspended sentences to short custodial sentences. We assume that 5% of offenders currently given community orders and suspended sentences are now given short custodial sentences. We assume that 50% of these offenders are sentenced to less than 1 month and 50% of these offenders are sentenced to 1-3 months. This would mean that 10,000 offenders were up-tariffed to short custodial sentences, resulting in around 800 additional prison places. There would be an additional cost in the provision of post-release supervision for these offenders; which would be off-set to some extent by savings in the provision of community orders.
50. We will carefully monitor sentencing outcomes after implementation of these provisions to understand what is driving any changes.

Extend drug testing to Class B drugs and require offenders to attend drug treatment

Aims and outcomes for the policy

51. We want to give providers the means to tackle offenders' drug misuse effectively, as the evidence shows that drug misuse is associated with high levels of re-offending. It will be up to probation providers to decide which offenders they wish to drug test and secure treatment for.

Costs

52. There will be costs associated with drug testing and treatment, and costs associated with sanctions if offenders fail to comply. The cost of testing will fall to providers of probation services and, as with other costs of providing supervision, will therefore be subject to competition. If we were to publish an estimated figure for the future costs this could put contractual negotiations at risk and prejudice the effectiveness of the competition. However, we have provided costings for sanctions for offenders who fail to comply with testing.
53. For drug appointments, any additional cost will be met by treatment providers and health commissioners. Given that treatment needs should be met in any case, this is not expected to be a new burden. This is not about creating new treatment pathways, but about ensuring offenders attend as required.
54. While we do not know which offenders providers will choose to test, we have considered an illustrative scenario where 10% of offenders released from custody are tested, which would be around 9,000 offenders per year.
55. There will be costs associated with breaching offenders who test positive for Class B drugs. As detailed in paragraph 28, we have already accounted for the impact of drug testing on breach for

offenders released after serving custodial sentences of less than 12 months. However, if probation providers were to test 10% of all offenders released from custody, we estimate that around 4,000 of these would be offenders released after serving longer sentences. We need to consider the cost of an increase in the number of breaches for these offenders. As we do not know the proportion of offenders who will test positive, we have looked at the behaviour of offenders subject to other interventions aimed at tackling drug misuse:

- 44% of offenders who began a Drug Rehabilitation Requirement, as part of a sentence served in the community in 2011/12 failed to complete this requirement²¹. However, it is not possible to disaggregate the reasons for breach from this number.
- A 2004 Home Office evaluation of CJS drug requirements which included testing on licence (although for Class A rather than Class B) indicated a 35% breach rate, and of those who did breach, 83% were recalled.²²
- We have taken the midway point of these figures and assumed that 40% of offenders tested for Class B drugs will test positive. We assumed that 80% of these offenders will be recalled to custody for 2 weeks.

56. We have assumed that 40% of the 4,000 offenders would fail to comply with the testing condition, and 80% of this sub-group would be recalled, resulting in around 1,000 recalls. Using a unit cost of recall for 2 weeks of £1,000, this gives a cost for breach of around £1m.

Benefits

57. We want to enable providers to tackle offenders' drug misuse issues and to support offenders to desist from crime. We have not quantified these benefits as we can not predict the success rate of the probation providers. There will also be un-quantified health, wellbeing and societal benefits if an addict attains recovery.

Increased flexibility in the delivery of non-custodial sentences

Aims and outcomes for the policy

58. To deliver greater flexibility in the delivery of sentences served in the community (community orders and suspended sentence orders).

Costs

59. We do not anticipate any significant costs arising from this proposal.

Benefits

60. We expect that increasing flexibility in the delivery of community orders and suspended sentence orders will give the providers of probation services the opportunity to improve innovation in the delivery of services, leading to reduced re-offending. This has the potential to cut prison and probation costs, reduce court backlogs and allow for savings on legal aid provision. We have not quantified these benefits as we can not predict the success rate of the providers.

Risks

61. There is a risk that the changes to community orders and suspended sentence orders could lead to changes in sentencer behaviour, and therefore affect the number of these orders imposed and the

²¹ National Offender Management Service Annual Report 2011/12: Management Information Addendum, NOMS, July 2012

²² Evaluation of drug testing in the criminal justice system, Home Office, July 2004.

requirements imposed under them. However, we have not set out potential scenarios in this impact assessment.