

Title: The Criminal Justice Act 2003 (Home Detention Curfew) Order 2023 IA No: MoJ050/2023 RPC Reference No: N/A Lead department or agency: Ministry of Justice Other departments or agencies: N/A	Impact Assessment (IA)			
	Date: 07/02/23			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Secondary legislation			
	Contact for enquiries: Chris Potter (chris.potter2@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
£57.1m	N/A	N/A	N/A	Not a regulatory provision

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

The Home Detention Curfew (HDC) scheme was introduced following the passage of the Crime and Disorder Act 1998. The purpose of the scheme is to effectively manage the transition of offenders from custody back into the community. The scheme enables prisoners to be released from prison early, while remaining subject to significant restrictions on their liberty. The current maximum period that an offender may spend in the community on HDC is 135 days. Extending this period to a maximum of 180 days (6 months) will provide further opportunities for offenders to prepare for the transition from custody to supervision under licence in the community, while subject to strict monitoring conditions. Government intervention is required as extending the maximum period on HDC requires secondary legislation.

What are the policy objectives and the intended effects?

The policy objective is to extend the resettlement benefits of HDC to those already eligible for the scheme by increasing the maximum period to 6 months, enabling them to better manage their release from custody and prepare for supervision on licence in the community. An additional benefit may be that by reducing demand for prison places, it will reduce crowding and improve prison conditions for both offenders and staff which may improve engagement in rehabilitative activities.

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

Two options are considered in this Impact Assessment:

- Option 0: do nothing.
- Option 1: legislate to increase the maximum HDC curfew period from 135 days to 180 days

The government's preferred option is option 1 as this best meets the policy objectives, namely, increasing the period of HDC to 180 days will increase the benefits associated with opportunities to prepare for resettlement, while being consistent with previous increases and maintaining public confidence in the administration of justice.

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: _____ Damian Hinds _____ Date: _____ 07/02/23 _____

Summary: Analysis & Evidence

Policy Option 1

Description: Legislate to increase the maximum HDC curfew period from 135 days to 180 days

FULL ECONOMIC ASSESSMENT

Price Base Year 22/23	PV Base Year 22/23	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £48.6m	High: £68.5m	Best Estimate: £57.1m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.0	£6.2m	£53.0m
High	0.0	£8.7m	£75.0m
Best Estimate	0.0	£7.3m	£62.4m

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

This option is not estimated to increase the number of offenders released under HDC but may lead to offenders being released up to 45 days earlier. As offenders will be on HDC for a longer duration of time, our best estimate suggests this option will increase the HDC population by up to 450 offenders when it reaches steady state.

Any increase in the HDC population is expected to lead to an increase in the demand for beds from Community Accommodation Service (CAS-2) of 100 places.

Our central estimate of the annual key monetised costs of the increase in the HDC population are as follows (rounded to nearest £100k):

- Probation and Electronic Monitoring Services: Additional costs for supervision of around £6.0m per annum
- Community Accommodation Service – Tier 2 (CAS-2): Additional costs for bed spaces of around £1.5m per annum

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

Increasing the duration of HDC could lead to more offenders breaching their licence conditions leading to more recalls to custody, creating additional costs to police (for arrest and return to custody) and HMPPS (for processing the recalls).

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	£0.5m	£4.4m
High	0.0	£0.8m	£6.4m
Best Estimate	0.0	£0.6m	£5.3m

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

HMPPS is expected to benefit from a decrease in prison population demand of 300 places equivalent to the increase in the HDC caseload. Only marginal saving benefits have been calculated for HMPPS, as the reduction in demand is not expected to lead to a reduction in the size of the prison estate, however the reduction in demand will help to manage crowding in the existing prison estate.

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

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

Key assumptions/sensitivities/risks

Discount rate

3.5%

- There is uncertainty in how recall rates and average time of recall may be affected by Option 1 for this group. A range of likely scenarios have been modelled on these factors.
- Impact estimates show an initial spike in HDC releases which will affect demand for CAS-2 accommodation. We have assumed CAS-2 accommodation will be able to meet new incoming demand, however, this may delay release for some offenders
- We have assumed that staff resources will be sufficient to assess and release the additional population at implementation. There is a risk that offenders may not be released as early as this option allows due to delays.
- A 20% '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. Current release provisions, set out in part 2 of the Criminal Justice Act 2003, require that most offenders serving standard determinate sentences (SDS), and all who are serving an SDS of less than four years in length, must be released at the halfway point of their sentence (the 'conditional release date'). The Home Detention Curfew (HDC) scheme, which became available in 1999 following the passing of Crime and Disorder Act 1998, enables certain offenders to be released ahead of this halfway point.
2. The policy objective of HDC is to enable suitable and eligible offenders to be released early from prison, in order to have a transition period after leaving custody and beginning supervision in the community on licence. During this transition period, they are subject to restrictions that limit their movements and activity but are able to begin reintegrating into the community sooner. In particular, offenders must be subject to an electronically monitored curfew at their home address. Since April 2019, they may also be subject to electronic monitoring of their location beyond the home address where this is considered necessary and proportionate and, since 2021 in Wales and 2022 in England, alcohol monitoring tags have been available to help enforce rules preventing offenders from drinking alcohol if this was something that played a role in their offending history.
3. Certain categories of prisoner are statutorily excluded from HDC, principally¹:
 - those sentenced to 4 years or more;
 - those sentenced to less than 12 weeks;
 - terrorist offenders;
 - those liable to deportation;
 - those who have previously breached the curfew condition of HDC; and
 - registered sex offenders.
4. Other offenders are, as a matter of policy, presumed to be unsuitable for the scheme in the absence of exceptional circumstances. Offenders presumed to be unsuitable for release on HDC include those serving a sentence for cruelty to children and homicide.²
5. When the HDC provisions were commenced in 1999 the maximum HDC period was 60 days. This was increased to 90 days in 2002 and to 135 days in 2003. The offender must also have served at least a quarter of the sentence (or a minimum of 28 days, whichever is greater) in custody before release on HDC. These limits combine to give a tapering effect on the period of HDC depending on sentence length, as shown in Table 1 below.

Table 1: Current minimum custodial terms and maximum curfews by sentence length

Sentence length	Minimum custodial term	Range of curfew lengths
12 weeks to 16 weeks	28 days	2 weeks to 4 weeks
16 weeks to 18 months ³	One quarter of sentence	4 weeks to 135 days
18 months to less than 4 years	135 days before sentence midpoint	135 days

6. The objective of the options assessed in this Impact Assessment (IA) is to further extend the potential resettlement and rehabilitative benefits of HDC to those offenders eligible for the scheme,

¹ This list is not exhaustive, for full details of HDC eligibility see Criminal Justice Act 2003 s.246

² For full details of those presumed unsuitable see Home Detention Curfew Policy Framework <https://www.gov.uk/government/publications/home-detention-curfew>

³ Note that we regard a month as comprising a fixed 30 days

i.e. those offenders not statutorily excluded or presumed to be unsuitable, by increasing the maximum period from 135 days to 180 days (6 months).

7. The HDC assessment process was strengthened in April 2022 with the introduction of mandatory requests to the police and local authority children's services for information about domestic abuse and child protection risks linked to the offender or the proposed release address. Further changes are being made to ensure the assessment takes account of the risks presented overall, and not just to those at the address; and that all necessary information-sharing takes place before there is a decision to release on HDC.
8. The Government has also decided to make changes to the list of offences where it is presumed that an offender is unsuitable for release on HDC. This is a list of offences of particular concern and those currently serving sentences of imprisonment for listed offences will not be considered for release on HDC in the absence of exceptional circumstances justifying their release. Additional legislation is not required to make changes to the list of offences which are presumed unsuitable for release. The current list is set out in the HDC Policy Framework and the Government has decided that the following offences, which are often linked to domestic abuse, should be added when the measures set out in this SI are implemented in June 2023:
 - a) Stalking;
 - b) Harassment;
 - c) Breach of Stalking Order
 - d) Breach of conditions of injunction against harassment;
 - e) Causing someone to be in fear of violence (Sect 4 of Protection from Harassment Act 1997);
 - f) Stalking involving fear of violence or serious alarm or distress;
 - g) Breach of Restraining Order issued on conviction or on acquittal
 - h) Breach of Non-Molestation Order;
 - i) Controlling or coercive behaviour in an intimate or family relationship;
 - j) Breach of Domestic Violence Protection Order;
 - k) Non-fatal strangulation and suffocation.
9. The overall effect of adding offences to the list will be to reduce the number of prisoners released on HDC. For both Options 0 and 1 in this IA, it has been assumed that the change to add these offences to the list of presumed unsuitable offences will be implemented. We have therefore modelled the impact of the changes proposed in this SI against a 'Do Nothing' Option 0 where such offenders no longer receive HDC.

B. Policy Rationale and Objectives

10. The conventional economic approach to government intervention is based on efficiency and equity arguments. The government may consider intervening if there are failures in the way markets operate (e.g. monopolies overcharging consumers) or there are failures with existing government interventions (e.g. waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and re-distributional reasons (e.g. to reallocate goods and services to groups in society in more need).
11. The primary rationale and policy objective for the options assessed in this IA is efficiency. Extending the maximum HDC period from 135 days to 180 days will further limit some of the negative effects of custody which will have a positive impact for offenders and their families: for example, earlier re-employment will allow them to support themselves and their families earlier in the sentence.
12. Evidence suggests that the monitoring may help with rehabilitation. Research published in 2018 into the experience of being electronically monitored indicates that, for some of those subject to electronic

monitoring, the period of electronic monitoring can be an opportunity to break habits and limit opportunities to commit crime, enhance chances for employment and training, and help to develop or maintain positive relationships. Each of these can be important in helping offenders desist from crime in the longer-term⁴.

13. Research published in 2011 found that HDC is an effective way of managing offenders suitable for release under the scheme. A like-for-like comparison based on offenders' characteristics and sentence length showed that those released on HDC were no more likely to engage in criminal behaviour during the first two years after release from custody than offenders with similar characteristics who were not eligible for HDC. This analysis included the additional time that offenders on HDC spend in the community in the two-year reoffending period⁵.

C. Affected Stakeholder Groups, Organisations and Sectors

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

- Offenders eligible for the HDC scheme (and their families)
- HM Prison and Probation Services (HMPPS)
- Electronic Monitoring Services (EMS)
- Community Accommodation Service (CAS-2), - which provides accommodation to offenders on bail and after release from prison if they lack their own housing, and
- Police services

D. Description of Options Considered

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

- **Option 0: Do nothing:** Make no changes to the maximum periods of HDC eligibility;
- **Option 1: Legislate to increase the maximum HDC curfew period from 135 days to 180 days**

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

Option 0: Do nothing

17. Under option 0, it is assumed that the HDC population will follow existing trends, with the exception of the implementation of the expansion of the list of offences who are presumed unsuitable for HDC, to come in simultaneously with the policy proposal of this SI.

Option 1: Legislate to increase the maximum HDC curfew period from 135 days to 180 days

18. This option would involve introducing a Statutory Instrument (SI) to increase the current maximum time on HDC from 135 days to 180 days (six months).

19. The existing constraints on the minimum custodial terms – that an offender must have served at least a quarter of their sentence or 28 days in prison (whichever is greater) to be eligible for HDC – will continue, meaning this option will only affect offenders with sentences of over 18 months. The effect of this option on how long offenders serving different sentence lengths could spend on a curfew with an electronic tag (in addition to supervision on the community) may be seen by comparing Table 2 to Table 1.

Table 2: Minimum custodial terms and maximum curfew lengths under Option 1

⁴ <https://www.gov.uk/government/publications/the-experience-of-electronic-monitoring-and-implications-for-practice-a-qualitative-research-synthesis>

⁵ <https://www.gov.uk/government/publications/the-effect-of-home-detention-curfew-on-recidivism>.

Sentence length	Minimum custodial term	Range of curfew lengths
12 weeks to 16 weeks	28 days	2 weeks to 4 weeks
16 weeks to 18 months	One quarter of sentence	4 weeks to 135 days
18 months to 2 years	One quarter of the sentence	135 days to 180 days
2 years to less than 4 years	180 days before sentence midpoint	180 days

20. Our assumed implementation date for this option is 6 June 2023.

E. Cost and Benefit Analysis

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

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

23. 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).

24. There is some uncertainty around the future volume of HDC caseload. This is due to factors including: whether the extended maximum HDC curfew period may result in an increased volume of recalls in the affected group (offenders serving sentences of more than 18 months and less than 4 years); how release rates may change in future months; and inherent uncertainty concerning the future prison population.

25. The impacts of Option 1, therefore, are presented under 3 scenarios. In these scenarios: Central represents our best-estimate of how we expect the HDC caseload to change following implementation; Low represents a scenario in which the fewest number of offenders are released onto and remain on HDC; and High represents the largest number of offenders.

- **Low:** We assume offenders are as likely to be recalled to custody in the extended HDC curfew period as they are in the existing (4.5 months) period. A lower rate of offenders being released onto HDC is used in future months, and future eligible offenders reflects the Low Scenario of internal prison projections.
- **Central:** Offenders are half as likely to be recalled to custody in the extended HDC curfew period as they are in the existing (4.5 months) period. A most-likely estimate of the rate of offenders being released onto HDC is used in future months, and future eligible offenders reflects the Central Scenario of internal prison projections.
- **High:** We assume offenders are not recalled to custody in the extended HDC curfew period. A higher rate of offenders being released onto HDC is used in future months, and future eligible offenders reflects the High Scenario of internal prison projections.

26. Estimates under each scenario assume all necessary preparations and resources are in place to facilitate the additional releases, so that assessments and referrals are undertaken in advance, and that the majority would be released on the implementation date. If all preparations are not in place, these figures will be over-estimates.

27. Estimates under each scenario assume that the change to the list of presumed unsuitable offences described in section A above will be implemented, as in Option 0.

28. The annual costs and benefits are presented in steady state throughout this IA. All cost estimates, unless stated otherwise, are annualised figures in 2022-23 prices rounded to nearest £100k. All volume estimates, unless stated otherwise, are rounded to the nearest 50 places.
29. Unless otherwise stated, a 20% optimism bias has been applied to all impacts (costs and benefits).

Option 1: legislate to increase the maximum HDC curfew period from 135 days to 180 days

30. Before detailing the costs and benefits of option 1, we set out the estimated impacts of the change in terms of changes to the HDC caseload and the prison population itself.
31. It is assumed that each increase in the HDC caseload will lead to an equivalent decrease in prison place demand. Each prison place saved as a result of the increase to the HDC caseload is costed as only a marginal saving to HMPPS from a reduction in crowding, where there are not sufficient savings to reduce fixed overheads.
32. The impacts are based on internal prison population projections up to March 2025. It has been assumed that the prison population in later years will remain at the levels forecast for 2024/25.
33. The main impact of this option relates to offenders serving sentences of more than 18 months and less than 4 years being released earlier in their sentence than at present and therefore remaining on HDC for longer (as detailed in Table 2 above).
34. There will be an initial backlog of people on the date of implementation who will immediately become eligible due to that date falling between their eligibility dates under the new rules and Option 0, respectively. The effect of this will be a spike of up to 400-450 in the estimated HDC population for the two months from the implementation date, June 2023, after which we would not expect any rise in demand as a result of this change. We have not assumed any delays upon implementation due to capacity constraints in CAS-2, or in probation staffing, which could decrease the initial spike.
35. After the initial spike at implementation, the impact of this policy on the HDC population is expected to decrease to 350-400 for the remainder of 2023-24. The expected impact of recruitment of an additional 20,000 police officers on the future prison population is then forecast to increase the total impact expected to an average of 450 in 2024-25 in the central estimate.

Table 3: Estimated change to the HDC caseload under option 1 (Central Scenario)

	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23
Change to HDC caseload	+400	+450	+400	+400	+350	+400
	Dec-23	Jan-24	Feb-24	Mar-24	2024-25 average	
Change to HDC caseload	+400	+400	+450	+450	+450	

36. We estimate that we would see an initial increase of approximately 390 HDC releases upon implementation in June 2023, as a result of the release dates for those now eligible for 6 months' HDC being brought forward. This is then followed by an average of about 50 fewer releases per month for the remainder of 2023-24, and an average of about 70 fewer releases per month in 2024-25, due to the additional presumed unsuitable offences.
37. MoJ statistics show that there were 2,224 CAS-2 referrals relating to HDC in 2021-22⁶ and 9,260 total releases onto HDC for the same period⁷. Therefore, 24% of offenders released on HDC were referred to CAS-2 as they did not have suitable accommodation into which to be released.
38. CAS-2 accommodation has a limited capacity. Based on the same CAS-2 referrals data, there were a total of 3,424 CAS-2 referrals (from all sources), meaning referrals relating to HDC were approximately 65% of total CAS-2 referrals. The initial increase in HDC demand for CAS-2 beds around the policy implementation date may mean there is some queueing for CAS-2 accommodation

⁶ <https://www.gov.uk/government/statistics/hmpps-annual-digest-april-2021-to-march-2022>

⁷ <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2022>

if there is a large spike. Increases in HDC demand could also lead to some eligible offenders not being released due to limited capacity, as offenders awaiting CAS-2 accommodation would remain in custody. Some offenders eligible for very short HDC release will inevitably reach their automatic release point while waiting for CAS-2 accommodation and hence not be released early on HDC. There is however agreement in place to further expand CAS-2 during 2023/24 to 850 beds and for this reason we assume CAS-2 capacity does not affect the overall estimates in the long-term.

39. Modelled forecasts for the increase in CAS-2 demand estimate a c.80 place increase in each of the financial years 23/24 and 24/25 (under the Central Scenario, with some variance for high and low). This increases estimated CAS-2 space demand to 760 then 850 across that time period, which as explained above may cause some queuing but is likely to be handled by the system due to the agreement in place.
40. The issues and risks associated with these – and other – assumptions are detailed in section F.

Costs of Option 1

Monetised costs

41. The monetised costs from Option 1 are to HMPPS, with increased costs to both probation and CAS-2 costs from the additional HDC caseload. Under the Central Scenario, an estimated 450 additional offenders will be managed by probation and electronically monitored and estimated 100 additional CAS-2 bed spaces will be needed, which is estimated to cost **£7.3m** per annum. The additional HDC population is estimated to vary between 400 and 600 additional offenders and between 50 and 100 additional CAS-2 bed spaces, with associated additional costs of between **£6.2m** and **£8.7m**.

Probation Services & Electronic Monitoring Service

42. Under the steady state, assuming all necessary preparations and resources are in place, the model estimates an additional HDC population of up to 450 offenders, as the central estimate, who will therefore be under supervision in the community rather than in custody.
43. Based on internal estimates of probation and electronic monitoring costs, we arrive at an expected additional cost (in 2022-23 prices) of **£4.9m** to **£7.1m** per annum.

CAS-2

44. The CAS-2 contract currently provides 650 beds from 1 April 2023 and contractually operates within a budget cap. Agreement is in place to further expand CAS-2 during 2023/24 to 850 beds. The **maximum** that contractually a CAS-2 bed space costs to the MoJ is £15,874 per bed space, but care needs to be applied as the cost includes the following factors:
- CAS-2 is not exclusively for HDC users as its first priority is to Bailees but it can also house people who face a recall to custody due to the loss of suitable accommodation in the community;
 - There remains a good level of existing demand for the service and the additional bed spaces will focus on expansion on the south of England where demand for CAS-2 is strongest;
 - The budget has provision for adjustment payments where occupancy levels fall below 80% and therefore the price point for the contract;
 - The contract has other variability clauses that can impact upon price.
45. Based on this, we arrive at an expected maximum additional operating cost (in 2022-23 prices) of **£1.3m** to **£1.7m** per annum.

Non-monetised costs

Police services

46. As some offenders will spend up to an additional 45 days on HDC under this option, it is possible that there could be an increased incidence of recall arising from the increased risk of offenders breaching their licences during this extra period. This could lead to more work for the police service (for arrest and return to custody) and HMPPS staff involved in the administration of the recall process.
47. Such impacts are expected to be marginal given that there will be the same number of releases under Option 1 and Option 0, where Option 1 releases are just being brought forward. However, it is unclear how being released at an earlier point in a sentence of 18 months to 4 years may impact on the likelihood of recall, which is why the scenarios described previously covered a range of recall rates.

Benefits of Option 1

Monetised benefits

HMPPS

48. Any impacts on the prison population will be interdependent with other system-wide policies affecting prison capacity. It is very unlikely that the impacts forecast by this change – around 400-600 reduction in prison place demand – will lead to the closure of prison cells, wings or entire prisons
49. As such, when considering the monetisable benefits arising from reductions of the prison population it is not necessarily appropriate to use the full cost per place figure in the HMPPS Annual Report and Accounts of £48,162⁸ as a saving to HMPPS. This figure is derived from the expenditure recorded directly in all prisoners divided by the average prison population over the year.
50. Therefore, we use a marginal cost per place of £1,700⁹, which translates to the additional cost per year of housing an offender where their addition to the prison estate simply leads to an increase in the prison population with no effect on fixed overheads.
51. This leads to estimated annual costs avoided of **£0.5m to £0.8m**.

Non-monetised benefits

HMPPS

52. Option 1 may contribute to making prisons safer places for both prisoners and staff, by delivering a modest reduction in prison population thereby enabling staff to be better placed to work with prisoners, however, it has not been possible to monetise the benefits of this change.

Offenders eligible for HDC, and their families

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

F. Assumptions, Risks and Sensitivity Analysis

54. 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

⁸ <https://www.gov.uk/government/publications/prison-performance-data-2020-to-2021>

⁹ Sourced from 2019/20 HMPPS internal analysis (inflated to 22/23 prices)

Assumptions	Risks / uncertainties
HDC eligible case volumes are estimated from current departmental prison population demand projections, where our Low Scenario aligns with the lowest population scenario; our Central Scenario with the most-likely estimate; and our High Scenario with the highest population scenario.	Actual prison volumes may vary from departmental projections.
Current observed HDC release rates are used to inform future release rate assumptions, where our Low Scenario assumes a lower release rate; our Central Scenario assumes a most-likely estimate; and our High Scenario assumes a higher release rate.	Actual release rates may vary from those previously observed. A range of release rates have been applied to cover a range of likely scenarios, following recent changes to the HDC caseload.
It is assumed that delays between the date an offender becomes eligible for release on HDC and their actual release will remain constant at observed levels.	<p>Earlier releases could be delayed due to insufficient staff availability, given the current staffing and recruitment pressures observed in probation services.</p> <p>Offender Managers must carry out pre-release planning with prisoners who are approaching their conditional release date. Bringing forward the HDC eligibility date for offenders serving sentences over 18 months may mean there is insufficient time to prepare for their release at this date, reducing the realisable impacts of the policy change.</p> <p>Increased delays could have a negative impact on the realisable benefits of this option.</p>
We have assumed for our Low Scenario that the rate of recall for the extended HDC period will be consistent with the current HDC period; our Central Scenario assumes that the rate of recall in the extended period will be half of that in the current HDC period; and our High Scenario assumes that there are no recalls in the extended HDC period.	Some offenders will be released on HDC up to 45 days longer than under the current policy meaning there is more time for them to breach their licence conditions. Therefore, it is possible that recall rates will increase which would reduce the prison place savings and result in additional costs to HMPPS and the police service.
The increase in HDC caseload from this policy will lead to avoidance of prison costs.	We do not expect to be able to decommission wings or whole prisons, and have therefore used the marginal cost per prisoner of £1,7500 (22/23 prices) to cover housing costs only.
Probation and electronic monitoring cost impacts based on internal economic estimates.	Should the mix of risk levels of offenders on HDC change, the hours of supervision required could shift resulting in variation on overall costs.
All impacts assume all necessary preparations and resources are in place to facilitate the additional releases, vis., in probation and EMS.	It may be the case that probation services may not be sufficiently prepared to release the initial spike in cases causing additional unanticipated delays.
80% of CAS-2 accommodation is the expected level of occupancy for the service.	Because of the sudden increase in HDC demand, the rate of CAS-2 referral rejection could increase due to lack of administrative capacity which would mean fewer people actually get released into BASS and limiting the initial spike further.
Capacity limits on CAS-2 do not impact the estimated increase in the HDC population	CAS-2 capacity may cause a small number of offenders eligible for release to queue for CAS-2 accommodation, some may reach their automatic release point while waiting. There is a risk,

	<p>therefore, that the immediate impact of the policy may be less than estimated in the short-term.</p> <p>Any queues for CAS-2 accommodation around the implementation date caused by the immediate increase in demand are estimated to be alleviated after around six months, meaning that there is expected to be no long-term effect of BASS capacity constraints.</p>
An optimism bias of 20% is applied to all impacts.	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.

G. Wider Impacts

Equalities

55. 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 prisoners eligible for HDC, regardless of their protected characteristics. Please see the separate equalities statement published alongside this IA for further details.

Better Regulation

56. 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.

Environment

57. There are not assumed to be any environmental impact as a result of these proposals as potential reductions in prison demand are not expected to lead to closure or change in operation of any prison in the estate.

Family Impact Test

58. Earlier resettlement of offenders into the community as a result of these proposals will mean they will be able to support themselves and their families earlier in the sentence, which may improve family relationships.

International trade

59. There are not assumed to be any direct costs or benefits to international trade for these proposals.

H. Monitoring and Enforcement

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