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|--|---|--|------------------------------------|--|
| <b>Title:</b> The Compulsory Electronic Monitoring Licence Condition (Amendment) Order 2021<br><br><b>IA No:</b> MoJ015/2021<br><br><b>RPC Reference No:</b> N/A<br><br><b>Lead department or agency:</b> Ministry of Justice<br><br><b>Other departments or agencies:</b> Home Office | <b>Impact Assessment (IA)</b>                 |  |                                    |  |
|  | <b>Date:</b> 03/09/2021                       |  |                                    |  |
|  | <b>Stage:</b> Final                           |  |                                    |  |
|  | <b>Source of intervention:</b> Domestic       |  |                                    |  |
|  | <b>Type of measure:</b> Secondary legislation |  |                                    |  |
| <b>Contact for enquiries:</b><br>catherine.craig-mcfeely@justice.gov.uk  |   |  |                                    |  |
| <b>Summary: Intervention and Options</b>   |   |  | <b>RPC Opinion:</b> Not applicable |  |

| Cost of Preferred (or more likely) Option (in 2021/22 prices) |                            |                               |                               |
|---|----------------------------|-------------------------------|-------------------------------|
| Total Net Present Social Value                                | Business Net Present Value | Net cost to business per year | Business Impact Target Status |
| £-82.4m   | N/A                        | N/A                           | Not a regulatory provision    |

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

Acquisitive offenders (offenders who derive material gain from their crime, such as burglary, theft and robbery) have amongst the highest levels of reoffending across all offence types: 49% of those convicted of theft (including burglary) and 27% of those convicted of robbery reoffend within a year of release compared to 22% in all other cases. In addition, these offenders are often not detected: 64% of theft (including burglary) offences and 80% of robbery offences resulted in no suspect being identified compared to 23% in all other offences.

At present, there is limited evidence on the effectiveness of electronic monitoring, particularly in the context of acquisitive crime. In April 2021, legislation came into force introducing satellite enabled (GPS) tagging of acquisitive offenders to 6 out of 43 police force areas (PFAs) where the offender received a standard determinate sentence (SDS) of 12 months or more. Expanding this to a further 13 areas will better allow the government to understand whether GPS tagging could 1) have a deterrent effect, reducing reoffending and protecting neighbourhoods from further acquisitive crime and 2) support the detection and prosecution of these offences through data sharing arrangements with the police. Government intervention is needed because the expansion of the measure to further PFAs requires secondary legislation. Future legislation may expand the measure nationally, at which point this Impact Assessment (IA) will be updated.

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

The objective is to test the effects of GPS tagging of acquisitive offenders on release from custody. The increased use of GPS could support police detection of further offences and/or act as a deterrent, so reducing acquisitive crimes, reducing reoffending, providing greater public protection and improving public confidence. The project will be evaluated, and findings published. Expanding this intervention to a further 13 PFAs will help inform the ongoing use of GPS and future policy decisions regarding a national roll-out, help refine effective and efficient partnership working and provide information on the impact of GPS tagging on proven reoffending rates and crime detection.

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

- Option 0: Do nothing
- Option 1: Legislate to extend the compulsory GPS tagging of certain acquisitive offenders as a licence condition, on release from prison to a further 13 PFAs

The Government's preferred option is option 1 as this best meets the policy objectives.

|  |  |  |                       |                 |                           |                 |
|--|--|--|-----------------------|-----------------|---------------------------|-----------------|
| <b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> N/A                    |  |  |                       |                 |                           |                 |
| 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?   |  |  | <b>Micro No</b>       | <b>Small No</b> | <b>Medium No</b>          | <b>Large No</b> |
| What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent) |  |  | <b>Traded:</b><br>N/A |                 | <b>Non-traded:</b><br>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: \_\_\_\_\_ Kit Malthouse Date: \_\_\_\_\_ 06/09/2021

# Summary: Analysis & Evidence

# Policy Option 1

Description: Legislate to extend the compulsory GPS tagging of certain acquisitive offenders as a licence condition, on release from prison to a further 13 PFAs.

## FULL ECONOMIC ASSESSMENT

| Price Base<br>Year 21/22 | PV Base<br>Year 21/22 | Time Period<br>Years 10 | Net Benefit (Present Value (PV)) (£m) |             |                      |
|--------------------------|-----------------------|-------------------------|---------------------------------------|-------------|----------------------|
|                          |                       |                         | Low: -76.5                            | High: -91.9 | Best Estimate: -82.4 |

| COSTS (£m)    | Total Transition<br>(Constant Price) 2 Years | Average Annual<br>(excl. Transition) (Constant Price) | Total Cost<br>(Present Value) |
|---------------|--|---|-------------------------------|
| Low           | 8.8  | 8.5   | 76.5                          |
| High          | 15.6   | 9.5   | 91.9                          |
| Best Estimate | 10.3   | 9.0   | 82.4                          |

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

The Electronic Monitoring Service costs associated with implementation, hardware, monitoring and field services are expected to be between £52.3m and £56.0m over 10 years. During this period, additional costs of between £23.9m and £25.3m are expected to be incurred by probation services for reviewing trail monitoring data and processing recalled offenders. The costs to the prison service from increased recalls are expected to be up to £10.5m in our high scenario although no additional costs are expected in our central or low scenarios. We have not identified any police costs as it has been agreed with the Home Office that any such impacts will be absorbed by the planned uplift in policing numbers.

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

As this option will involve new systems and ways of working, there will be costs of familiarisation with the data and systems for police forces, HMPPS probation and the Electronic Monitoring Service although these are not expected to be large. Offenders and their families may experience some adverse impacts from the stigma associated with the tag on their employment and relationships, although it has not been possible to quantify these costs with any precision.

| BENEFITS (£m) | Total Transition<br>(Constant Price) 2 Years | Average Annual<br>(excl. I) (Constant Price) | Total Benefit<br>(Present Value) |
|---------------|--|--|----------------------------------|
| Low           | 0.4  | 0.6  | 4.8                              |
| High          | 0  | 0  | 0                                |
| Best Estimate | 0  | 0  | 0                                |

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

If GPS tagging deters acquisitive crimes by offenders on licence, there could be a reduction in recall rates resulting in a reduced prison population. This is estimated to save the prison service £4.8m over 10 years in the low scenario.

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

A range of benefits are expected from extending compulsory GPS tagging of certain acquisitive offenders on release from custody. These include: improved confidence in the criminal justice system's ability to respond to acquisitive crime; reductions in reoffending and thus fewer victims during the period of monitoring; enhanced offender risk management, supervision and support; improved crime investigation and detection for police forces; a strengthened evidence base for the effectiveness of electronic monitoring. It has not been possible to quantify these benefits due to the limited evidence on the direction and magnitude of these impacts. These will be tested through this piloting of the intervention. A robust evaluation is planned, but findings are not yet available to be able to quantify any reductions in reoffending.

|  |                          |     |
|--|--------------------------|-----|
| <b>Key assumptions/sensitivities/risks</b> | <b>Discount rate (%)</b> | 3.5 |
|--|--------------------------|-----|

- 1) Caseload estimates are based on the current prison population at August 2021 and historical figures on offences dealt with in 2020, and are assumed to increase in line with prison projections over the ten year appraisal period
- 2) The recall rate for acquisitive offenders not subject to GPS tagging is assumed at 14%. Due to a lack of evidence on the impacts of GPS tagging on recall rates, three scenarios are modelled: a central one where there is no impact on recall rates; an 11% increase in the recall rate in the high scenario, and a reduction by 5% in the low scenario.
- 3) Due to capacity constraints, it is assumed that additional prison estate will be required to accommodate the increased prison caseload at a cost of £250k per place. Annual prison costs of £44,640 (excluding optimism bias) are based on averages. The actual prison costs will vary depending on the needs and risks of the offender.
- 4) Optimism bias of 20% has been applied to all costs.

## BUSINESS ASSESSMENT (Option 1)

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

# Evidence Base

## A. Background

1. Acquisitive crime refers to offending where the offender derives material gain from the crime (i.e. burglary, theft, and robbery). Acquisitive offenders have one of the highest reoffending rates amongst all offence types: 49% of all adults convicted of theft (including burglary) and 27% of all adults convicted of robbery are proven to reoffend within a year of release; this compares to a proven reoffending rate of 22% for all other offences<sup>1</sup>. In addition, offenders are often not detected in many police recorded acquisitive crimes: 80% of theft (including burglary) offences and 64% of robbery offences resulted in no suspect being identified in the year ending March 2021, compared to 23% in all other offences.<sup>2</sup>
2. Currently, if an acquisitive crime offender is sentenced to custody they are likely to receive a Standard Determinate Sentence (SDS)<sup>3</sup> and the majority will be released from custody at the half-way point or earlier if they are eligible for Home Detention Curfew (HDC).<sup>4</sup> They then serve the remainder of their sentence in the community under probation supervision and are subject to licence conditions which can place restrictions on their movements, associations or activities, or prescribe activities. The offender must comply with their licence conditions to avoid facing a return to custody.
3. HDC has been running since 1999 with offenders released early from prison subject to an electronically monitored curfew. Electronic monitoring (EM) is a criminal justice tool which has been used to assure compliance with curfews for community orders, suspended sentence orders and Court imposed bail for many years. Since 2019, satellite enabled location monitoring using global positioning system (GPS tagging) has also been available for assuring compliance with exclusion zones. In addition, 'standalone location monitoring' – trail monitoring – which tracks the movements of the offender, is also available. Many police forces also use GPS tags with known offenders on a voluntary basis to support their efforts to prevent and detect crime.
4. There is, however, limited evidence from England and Wales on the effectiveness of EM. An impact evaluation conducted by the Ministry of Justice (MoJ) in 2011 on the effectiveness of HDC revealed no significant differences in reoffending behaviour between offenders released early with an electronically-monitored curfew and offenders not eligible for early release on HDC.<sup>5</sup> The MoJ has also published two process evaluation reports on the use of GPS tagging with various cohorts of offenders.<sup>6</sup> The findings revealed that practitioners such as probation officers felt that GPS trail monitoring supported the effective management of offenders through supporting offender rehabilitation, facilitating risk management, informing decisions about whether a wearer should be recalled to custody or court, and providing evidence to either exonerate a wearer or link them to a

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<sup>1</sup> MOJ (2021). Proven Reoffending Statistics: July to September 2019, <https://www.gov.uk/government/statistics/proven-reoffending-statistics-july-to-september-2019>

<sup>2</sup> HO (2021). Crime Outcomes in England and Wales, year ending March 2021, <https://www.gov.uk/government/statistics/crime-outcomes-in-england-and-wales-2020-to-2021>

<sup>3</sup> 90% of offenders convicted of robbery or theft offences who were sentenced to immediate custody received a Standard Determine Sentence in 2020. MOJ (2021). Criminal justice statistics quarterly: December 2020, Court outcomes by police force area tables, <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

<sup>4</sup> A small minority of acquisitive offenders may be released at a later point as the requisite custodial period is two thirds for offenders sentenced to a term of imprisonment of 7 years or more for robbery or aggravated burglary.

<sup>5</sup> Marie, O., Moreton, K., & Goncalves, M. (2011). The effect of early release of prisoners on Home Detention Curfew (HDC) on recidivism. *Ministry of Justice*

<sup>6</sup> Cohorts included were: court imposed bail, Community Orders, Suspended Sentence Orders, Home Detention Curfew, release after recall, licence variation, and Parole Board releases.

crime.<sup>7,8</sup> The levels of compliance amongst wearers were generally thought to be good. However, no impact evaluation was conducted on levels of reoffending due to small sample sizes within groups and difficulties in obtaining a robust comparison group.

5. International evidence on the impact of EM on reoffending and other outcomes is also limited and inconsistent. There are relatively few studies on EM that reliably measure impact, and those that follow robust analytical methods suggest that the impact of EM is heavily context-dependent. There is one study indicating that EM is an effective tool for improving compliance in acquisitive offenders on community services<sup>9</sup>, however, there is no evidence on the impacts of GPS tagging for acquisitive offenders on licence.
6. The existing evidence on EM can, however, be contextualised in a wider body of ‘deterrence’ research. Whilst evidence on the impact of severity-based deterrence strategies is mixed, increases in the certainty of apprehension and punishment have consistently been found to have a deterrent effect.<sup>10</sup> Therefore, EM may deter future offending by increasing the likelihood of being caught.
7. To increase the existing evidence base, in April 2021, legislation was laid to introduce compulsory GPS tagging of acquisitive offenders as a licence condition, on release from custody in an initial six police force areas (PFAs). This option has been used as an initial pathfinder, operating on a ‘test and learn’ basis, with early indications showing that the scheme has been well received and is operating well in PFAs. However, to draw robust conclusions on its effectiveness, the scheme needs to be tested in a larger number of areas.
8. In this context, there is clearly scope for the increased use of EM whilst also increasing the evidence base associated with their use. This Impact Assessment (IA) therefore assesses the option of expanding the compulsory GPS tagging of acquisitive offenders serving a custodial sentence 12 months or more on release from prison to a further 13 PFAs.

## **B. Rationale and Policy Objectives**

### Rationale

9. The conventional economic approaches to Government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or there are strong enough failures in existing Government interventions (e.g. waste generated by misdirected rules) where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more vulnerable groups in society).
10. The primary rationale for intervention in this instance is efficiency: Government intervention could increase our knowledge of the effectiveness of EM for acquisitive offenders on licence. In particular, expanding the measure to further PFAs will allow for the larger scale testing of GPS tagging to improve our understanding of potential impacts on deterrence from future offending, crime detection,

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<sup>7</sup> MOJ (2019). Process evaluation of the Global Positioning System (GPS) Electronic Monitoring Pilot: Quantitative findings, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814219/process-evaluation-gps.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814219/process-evaluation-gps.pdf)

<sup>8</sup> MOJ (2019). Process evaluation of the Global Positioning System (GPS) Electronic Monitoring Pilot: Qualitative findings, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779199/gps-location-monitoring-pilot-process-evaluation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779199/gps-location-monitoring-pilot-process-evaluation.pdf)

<sup>9</sup> W., Mann, K., Blomberg, T., Gaes, G., Barrick, K., Dhungana, K., & McManus, B. (2012). *Quantitative and qualitative assessment of electronic monitoring*. BiblioGov

<sup>10</sup> Ritchie, D. (2011) *Does Imprisonment Deter? A Review of the Evidence*. Sentencing Advisory Council, Victoria

compliance with other licence conditions and reoffending, as well as being able to assess the potential of trail monitoring data to support offender management of risk and rehabilitation.

### Policy Objectives

11. The proposed extension of mandatory GPS tagging for acquisitive offenders aims to:
- a. **Act as a deterrent to future reoffending:** acquisitive offenders have high rates of reoffending; the use of this technology could ensure greater compliance with licence conditions and inform offender management in a wider number of areas. In addition, because the associated trail monitoring data can be shared with the police to assist investigations, this intervention may also have a deterrent effect.
  - b. **Assist police investigations into acquisitive crimes through targeted data sharing:** the new areas will be able to request previously unavailable trail monitoring data as a result of the extension – this could help to rule suspects in and out of investigations, potentially increasing the conviction rate for acquisitive crimes and potentially saving police resources.
  - c. **Further develop the evidence base on the effectiveness of EM:** as noted above, there are significant limitations with the current evidence base for EM, particularly for the use of EM on licence; expanding this project will allow for a more robust evaluation to be undertaken by providing a more representative sample of offenders.

## **C. Affected stakeholder groups, organisations and sectors**

12. The options assessed in this IA will apply in England and Wales. A list of the main groups and stakeholders who would be affected by the proposals described in this IA are shown below. Section E outlines costs and benefits to these groups.

- Eligible offenders, their families and those they live with;
- Her Majesty's Prison and Probation Service (HMPPS), including the Electronic Monitoring Service;
- Ministry of Justice (MoJ);
- Home Office;
- Police;
- Victims;
- The public.

## **D. Description of options considered**

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

- **Option 0:** Do nothing: Continue with existing legislation which introduced compulsory GPS tagging of certain acquisitive offenders with a standard determinate custodial sentence of at least 12 months as a licence condition, on release from custody, in six PFAs
- **Option 1:** Legislate to extend the compulsory GPS tagging of certain acquisitive offenders as a licence condition, on release from prison to a further 13 PFAs.

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

### **Option 0: Do nothing**

15. Under this option, the existing EM conditions for acquisitive offenders on licence will remain unchanged i.e. that existing legislation which introduced compulsory GPS tagging of certain acquisitive offenders with a standard determinate custodial sentence of at least 12 months as a licence condition, on release from custody in six PFAs, would continue.

**Option 1: Legislate to extend the GPS tagging of certain acquisitive offenders as a licence condition on release from custody to a further 13 PFAs.**

16. This option will involve introducing a Statutory Instrument (SI) to enable acquisitive offenders who receive custodial sentences of 12 months or more to be fitted with a GPS tag upon release from custody in a further 13 PFAs.
17. Trail monitoring using the GPS tag will be a mandatory condition on the offender's licence for either the remainder of their sentence or 12 months (subject to extensions for periods recalled), whichever is shorter. The trail monitoring standard licence condition will be applied to all offenders who meet the following criteria:
  - a. have committed any of the following acquisitive neighbourhood crimes: robbery, burglary, aggravated burglary and theft where it concerns theft from another person, a vehicle or motor vehicle or theft of a motor vehicle
  - b. have been sentenced to a SDS of 12 months or more; this will allow for consistent testing of at least 6 months' wearing of a tag since these offenders will usually be released halfway through their sentence. This will capture the majority of the cohort given the average custodial sentence for adults convicted of burglary offences and receiving a SDS is 22 months, and 54 months for robbery offences; and
  - c. will be supervised within the geographical range identified in the legislation
18. We propose to make GPS tagging a compulsory condition for all qualifying offenders. The condition will be imposed unless the individual circumstances of the offender make GPS tagging impossible or the offender is unsuitable. For example, if an offender does not have suitable accommodation at release, GPS tagging is unlikely to be possible (we estimate that 25% of acquisitive offenders will not find suitable accommodation during the period for which they would qualify for the compulsory condition). Whether the offender is unsuitable may also reflect individual circumstances with regard to mental and physical health, disability and, if relevant, developmental disorders and neurological impairments. Qualifying offenders who are identified as suitable for release on HDC will be included.
19. The licence will include the GPS tagging condition for up to 12 months (subject to pauses for any period recalled) from the date the offender is 'first' released after commencement, which may be the date they are their automatically or (if serving another sentence subject to such) discretionarily released, their earlier HDC release date or the date they are re-released following recall (if on commencement they are serving a recall or following commencement they are subsequently recalled and re-released). For offenders serving one sentence of 24 months or less (not released on HDC) the licence condition will be in place for the whole of their sentence.
20. Offender managers will retain the discretion to add curfew and / or exclusion zones as additional licence conditions for offenders subject to the condition where necessary and proportionate for risk management or public protection purposes, and the trail monitoring data will inform compliance. However, it will not be compulsory to apply these conditions.
21. Our assumed implementation date for this option is 29 September 2021. The measure is expected to continue and has no set end date but will be reviewed regularly to help inform the ongoing use of the measure, changes to the measure to improve effectiveness and efficiency, and future policy decisions regarding further roll-out. Further legislation may be laid in the future to expand the measure nationally, at which point this IA will be updated accordingly.

## **E. Cost and Benefit Analysis**

22. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
23. Where possible, this IA identifies 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. The costs and benefits of each option are

compared to option 0, the do nothing or 'baseline' case. As the 'baseline' option is compared to itself, the costs and benefits are necessarily zero, as is its Net Present Value (NPV).

24. The IA guidance places a strong focus on the monetisation of costs and benefits. There are often, however, important impacts that cannot sensibly be monetised. These might be impacts on certain groups of society or some data privacy impacts, positive or negative. Impacts in this IA are therefore interpreted broadly, to include both monetised and non-monetised costs and benefits, with due weight given to those that are non-monetised.

## **Methodology**

25. All costs in this IA are given in 2020-21 prices with a 20% optimism bias applied.

26. Because Option 1 has no expected end date, the NPV of the policy is appraised over a 10-year period beginning in 2021/22. Where figures are stated annually, they are presented as the steady state unless otherwise stated. The implementation date of the policy is modelled as October 2021.

27. The estimated volume of acquisitive offenders expected to be monitored on licence is based on the prison population as of August 2021, and patterns of acquisitive offences dealt with and sentencing decisions made in 2020. It is assumed that the numbers sentenced for acquisitive offences will increase in line with prison population projection impacts, which have been adjusted to take into account both demand and operational changes due to the COVID-19 pandemic and the expected increase in police officer numbers over the appraisal period. In what follows, population volumes greater than 100 are rounded to the nearest 50 and volumes less than 100 to the nearest 10.

28. Offenders who breach their license conditions may be recalled to prison. The direction and magnitude of any recall impact is, however, highly uncertain due to a lack of evidence. There is also no official recall rate available to indicate current levels of recall for acquisitive criminals without EM. For the purpose of this IA, we have assumed a recall rate of 14% for acquisitive offenders sentenced to 12 months or more who are not subject to GPS tagging.<sup>11</sup>

29. Whilst there is some evidence to indicate that GPS tagging may improve compliance and reduce recall rates,<sup>12</sup> it is also plausible that the increased ability to detect non-compliance and offending may increase the likelihood of recall for tag wearers. To reflect this uncertainty, we have assessed the impact on recall and the prison population using three possible scenarios below.

- The central scenario assumes no impact on recall and the recall rate remains at 14%.
- The high scenario assumes the recall rate will increase to 25% for tag wearers to reflect increased police detection of breaches of conditions.
- The low scenario assumes the recall rate will fall to 9% for tag wearers to reflect increased compliance.

30. We have not identified police costs as it has been agreed with the Home Office that any resource impacts on the police will be absorbed by the planned uplift in policing numbers.

31. When estimating the impacts of option 1, modelling for the original six PFAs has been updated since the original IA to include more recent data and revised assumptions. The assumptions currently used are discussed in more detail in section F of this IA.

## **Option 1: Legislate to extend the GPS tagging of acquisitive offenders as a licence condition on release from custody to a further 13 PFAs**

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<sup>11</sup> See section F (assumptions and risks) for more detail

<sup>12</sup> Belur, J., Thornton, A., Tompson, L., Manning, M., Sidebottom, A., & Bowers, K. (2017). A systematic review of the effectiveness of the electronic monitoring of offenders. What works crime reduction systematic review series

## Costs of Option 1

### Monetised costs

#### *HMPPS, Electronic monitoring service*

32. There will be increased costs to the Electronic monitoring service due to an estimated additional caseload of between 1,490 and 1,680 offenders being on GPS tags in the steady state. We estimate that equipment procurement and live running costs for this increased caseload will incur an average annual cost of between £5.7m and £6.2m per annum, depending on the scenario.
33. This option will also incur implementation costs which includes the administration and development of crime mapping software. Estimated implementation costs for the Electronic Monitoring Service will total £2.2m in 2021/22 in all scenarios.

#### *HMPPS, Prison service*

34. In the high scenario, we estimate there could be additional costs to HM Prison Service due to an increased rate of recall. This results in an estimated increase of 220 recalls to prison per annum. This is estimated to increase the annual prison population by around 50 places and will incur an average annual cost of £1.2m per annum.
35. Due to current capacity constraints, it is assumed additional prison places will need to be constructed to accommodate the increase in prison population required by an estimated 70 places, which is assumed to be met by constructing new prison capacity in 2021/22-2022/23. The estimated one-off construction costs will total £5.2m.
36. We do not anticipate any additional costs to HM Prison Service in the central or low scenarios as both assume no increase in recall as a result of trail monitoring, thus there will be no increases in the prison population.

#### *HMPPS, Probation service*

37. There will be additional resourcing costs to the probation service for managing offenders with trail monitoring as a result of an estimated additional caseload of between 1,490 and 1,680 offenders on GPS tags in the steady state. We expect that this will result in additional average annual costs to the probation service of between £2.6m to £2.8m.

#### *Ministry of Justice*

38. Expanding the project to a further 13 PFAs is not expected to increase the research and evaluation costs to the MoJ under all three scenarios.

### Non-monetised costs

39. As this option will involve expanding the use of new systems and ways of working there are likely to be familiarisation costs with the data and systems for affected police and probation staff, including offender managers and administrators. These have not been monetised as they are uncertain and expected to be minimal.
40. Additional offenders from the further 13 PFAs, as well as their families, may experience stigma from wearing tags which may affect their employment and relationships. It has not been possible to quantify this with any precision.



## **Benefits of Option 1**

### Monetised benefits

#### *HMPPS, Prison service*

41. In the low scenario, we expect there will be a reduction in recall due to increased compliance. Based on the 9% recall rate for this scenario, this results in an estimated reduction of 95 recalls to prison per annum. This is estimated to reduce the prison population by around 20 places and save an estimated £0.6m per annum.
42. No other benefits have been quantified due to the limited evidence on the direction and magnitude of these impacts.

### Non-monetised benefits

43. It has not been possible to monetise most of the benefits of option 1, since no data on reductions in reoffending are available; however, this data will be collected through the evaluation. The main benefits of extending this project to further PFAs are expected to be due to further reductions in reoffending leading to savings in court costs as well as prison places.

#### *HMPPS, Probation service*

44. The further use of trail monitoring will be an additional tool for probation officers when managing these offenders and so should help enhance offender risk management, supervision, and support. In addition, extending the project will further improve data sharing between probation and police services, enhancing Integrated Offender Management (IOM) arrangements. IOM is a cross-agency response to the crime and reoffending threats faced by local communities. The most persistent and problematic offenders are identified and managed jointly by partner agencies working together to provide a local response to local problems, by ensuring the best use is made of existing programmes and governance arrangements, so offenders face up to their responsibility or face the consequences and have a chance of achieving long-term desistance from crime.

#### *Ministry of Justice*

45. By extending the project to a further 13 PFAs, this option will further strengthen the evidence base for the effectiveness of EM with a robust evaluation, the findings of which will inform further developments and uses of EM as a tool in the criminal justice system in future.

#### *Police*

46. This option may improve crime detection for the affected police forces. More police forces will be able to access trail monitoring data in a targeted way under this option – this could help to rule suspects in and out of investigations, reduce both the resource and time needed to complete investigation, improve crime outcomes and potentially increase the conviction rate for acquisitive crimes.

#### *Offenders and their Families*

47. Additional offenders and their families may experience benefits of trail monitoring if tagging helps to break criminal behaviour and negative social links. This may arise because EM may facilitate rehabilitation, improve family relationships, and facilitate access to accommodation due to additional reassurance around risk management provided by the tag.

#### *Victims and the public*

48. Extending the project may lead to further increases in confidence in the criminal justice system's ability to respond to acquisitive crime. Since many burglars and robbers are repeat offenders, the

further use of GPS tagging as an additional tool to aid police and probation services with Integrated Offender Management of problematic offenders may help to improve public confidence. A reduction in reoffending and therefore fewer victims would also contribute to increased confidence. The further use of GPS tagging could also assist with greater detection and potentially faster outcomes for victims.

49. This option may further reduce reoffending and thus reduce the number of victims during the period of monitoring. Acquisitive offenders have high rates of reoffending; the use of GPS tagging could ensure greater compliance with licence conditions and, because the trail monitoring data can be used by the police to assist investigations, it may also have a deterrent effect. As such, there is a real potential for this to reduce reoffending which would have significant monetised benefits. This project will test the direction and magnitude of these impacts.

### **Overall Impact**

50. Table 1 below provides a summary of the impacts of Option 1 on the criminal justice system.
51. The HMPPS, Electronic Monitoring Service, will incur estimated average annual costs of between £5.7m and £6.2m due to the increased caseload of offenders on GPS tags.
52. HMPPS Probation Service will incur additional costs of managing offenders subjected to trail monitoring. These are estimated to cost between £2.6m and £2.8m per annum.
53. In the high scenario, prison construction costs estimated to be £5.2m are anticipated in 2021/22-2022/23 to meet the demand for the higher number of prison places required due to increased recall.

**Table 1: Summary of overall costs for central, high, and low scenarios<sup>13</sup>**

|  | <b>Central Scenario</b> | <b>High Scenario</b> | <b>Low Scenario</b> |
|--|-------------------------|----------------------|---------------------|
| <b>HMPPS, Electronic Monitoring Service (average annual)</b>                     | £6.2m                   | £5.7m                | £6.2m               |
| <b>HMPPS, Electronic Monitoring Service (total implementation costs)</b>         | £2.2m                   | £2.2m                | £2.2m               |
| <b>HMPPS, Probation Service (average annual)</b>                                 | £2.8m                   | £2.6m                | £2.8m               |
| <b>HMPPS, Prisons Service (average annual; excluding construction)</b>           | £0.0m                   | £1.2m                | -£0.6m              |
| <b>HMPPS, Prisons Service - Construction (total)</b>                             | £0.0m                   | £5.2m                | £0.0m               |
| <b>Ministry of Justice (total evaluation costs)</b>                              | £0.0m                   | £0.0m                | £0.0m               |
| <b>NPV (10 year) (excluding EM implementation, construction, and evaluation)</b> | <b>£80.3m</b>           | <b>£84.5m</b>        | <b>£74.4m</b>       |
| <b>NPV (10 year)</b>   | <b>£82.4m</b>           | <b>£91.9m</b>        | <b>£76.5m</b>       |

<sup>13</sup> The figures in the table may not appear to add up perfectly due to rounding. This table is a summary of the points explained in Section E.

## F. Assumptions and Risks

54. The main assumptions used in the analysis, and the associated risks, are stated in table 2 below.

**Table 2: Key assumptions and risks**

| Assumption  | Associated Risks   |
|---|--|
| <b>Caseload</b>   |  |
| <p>Around 75% qualifying offenders will be suitable for tagging. This is based on evidence on the proportion of offenders released from custody in the year to March 2021 who were not rough sleeping, other homeless, or other unsettled accommodation (71%)<sup>14</sup>, and indicative internal analysis from the initial pathfinder phase suggesting that the number of offenders who are ineligible due to a lack of suitable accommodation is lower than expected.</p> | <p>The MoJ is currently working to increase access to suitable accommodation for offenders released from custody, so these initiatives may increase the number of acquisitive offenders who are suitable for tagging. The evaluation will seek to capture the number of offenders not suitable for tagging and reasons for this.</p>   |
| <p>The proportion of acquisitive offenders released early with HDC is based on the proportion of the acquisitive offenders who were sentenced to less than 4 years in 2020<sup>15</sup> and internal analysis on the HDC release rate for HDC eligible cases in the general offender population.</p>  | <p>The HDC eligibility data includes a small number of offenders who are statutorily ineligible for HDC, such as registered sex offenders or those with a previous recall for breach of curfew on HDC as they cannot be identified from the data that is held. Moreover, certain offenders are presumed unsuitable for HDC and will only be considered for release in exceptional circumstances. Consequently, we expect that the actual rate of HDC release may be higher for acquisitive offenders. We do not expect this to have a significant impact on caseload or costs.</p> |
| <p>HDC release occurs after an offender has served at least three quarters of their sentence, up to 120 days earlier than the automatic half-way release point. It is assumed that all other offenders are released at the automatic half-way point.</p>  | <p>Under the Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020, a small minority of offenders may not be eligible for release until two-thirds of the way through their sentence due to the nature of their offence.<sup>16</sup> Consequently, the caseload build-up may be slower to reflect longer time served in custody for these offenders. However, we do not expect this to significantly impact caseload or cost estimations due to the small proportion of acquisitive offenders to whom this applies.</p>                                 |

<sup>14</sup> MOJ (2021). Community Performance Quarterly: update to March 2021, <https://www.gov.uk/government/statistics/community-performance-annual-update-to-march-2021>

<sup>15</sup> MOJ (2021). Criminal justice statistics quarterly: December 2020, Court outcomes by police force area tables, <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

<sup>16</sup> The requisite custodial period is two thirds for offenders sentenced to a term of imprisonment of 7 years or more for robbery or aggravated burglary

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| Monitoring starts by acquisitive offenders currently in custody was estimated based on the prison population as of August 2021 and historic sentencing data. We have assumed that the geographical distribution of offenders released from custody to police force areas would reflect the national distribution of sentencing of acquisitive criminals. <sup>17</sup>        | Data on offenders held in prison establishments does not include or reflect the PFA that an offender is released to reside at and therefore data on sentencing by PFA has been used to understand which offenders will or will not be in areas that are in scope. However, the area for sentencing may also not always reflect where an offender is released to and any variation from this has not been captured in our estimates and may lead to under or over estimates in the volumes expected to receive this intervention. However, based on comparison to regional-level licence caseload data, we expect this variance to be small. |
| Future volumes of cases throughout the ten-year appraisal period are adjusted to increase year-on-year in line with MoJ prison projections.   | Differences in volume of acquisitive offences charged could result in lower or higher caseloads. The impacts of increased police force numbers and the impact of Covid have been factored into caseload estimations, however these impacts do not account for differential impacts specific to acquisitive crime. We would expect this variance to be small.  |
| Length of monitoring has been calculated based on average custodial sentence lengths in 2020 for offenders grouped by sentence length bands.  | There is a risk that monitoring lengths could be longer or shorter depending on licence lengths, however we expect the impact of this to be small.  |
| <b>Recall</b>   |   |
| We have estimated a recall rate of 14% for acquisitive offenders sentenced to 12 months or more who are not tagged, based on the estimated recall rate for the general offender population <sup>18</sup> and the average excess recall rate for theft offenders sentenced to 12 months or more compared to all determinate releases.  | There is no official recall rate, therefore this rate could be higher or lower for this cohort.   |
| The assumed impact on recall rates varies with the three scenarios used:<br><br>1. In the central scenario we assume no impact on recall i.e. it remains the same as the counterfactual (the impact on reoffending/increased compliance is counterbalance by the increased detection).<br><br>2. In the high scenario we assume a 25% recall rate, based on the mid-way point | We do not have evidence to indicate the magnitude or direction of the impact on recalls. It seems plausible that the addition of GPS tagging to this group of offenders may result in a higher number of recalls. This may be as a result of breaches due to being monitored (for example, the requirement to regularly charge the tag). Therefore, we have considered three scenarios to allow for uncertainties in recall impacts.  |

<sup>17</sup> MOJ (2021). Criminal justice statistics quarterly: December 2020, Court outcomes by police force area tables, <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

<sup>18</sup> This was based on the number of licence recalls in a recall period divided by the post-release supervision caseload at the end of that period, averaging 10% between April 2019 and March 2020. This is an approximate estimate due to the complexity of the data (e.g. individuals may have been recalled multiple times within the same recall period, recalled individuals may still be in custody at the end of the period etc.)

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| <p>of recall for HDC (19%)<sup>19</sup> and recall in a previous MoJ pilot on GPS tagging (31%),<sup>20</sup> to model the impact of the high scenario where monitoring could lead to higher rates of recall.</p> <p>3. In the low scenario, we have assumed a scenario where the rate of recall reduces by 5 percentage points, to 9%.</p> | <p>We expect the recall impact to be higher than in HDC, where the majority of recalls are for breach of curfew conditions. However, we expect the recall impact to be lower than the previous MoJ pilot on GPS tagging, where exclusion and curfew requirements were often used but tracker shutdowns accounted for 43% of violations. Since this pilot concluded, the criteria for battery breaches has since been amended to reduce the occurrence of these, so we do not expect as many violations for this cohort. Therefore, for the high scenario where we assume there will be an impact on recall, we have used the mid-way point of recall for HDC and the previous MoJ GPS pilot.</p> |
| <p>It is assumed that additional prison estate is required to accommodate the increased prison caseload at a cost of £250k per place and annual prison costs of £44,640 (excluding optimism bias).</p>  | <p>Annual prison costs are based on averages and actual costs will vary depending on the needs and risks of the offender.</p>  |
| <p>The recall point is based on the average proportion of the licence period served prior to licence revocation for acquisitive offenders sentenced to 12 months or more who were recalled between January 2018 and June 2020, using internal data.</p>   | <p>Trail monitoring may impact offending behaviour and thus recall point may be different for offenders' subject to trail monitoring. The recall point may therefore be earlier or later. We do not expect this to have a large impact on cost or caseload.</p>  |
| <p>The average time an offender spends in prison during recall is based on the median length of recall for acquisitive offenders sentenced to 12 months or more who were recalled between January 2018 and June 2020, using internal data.</p>  | <p>This period could be higher or lower depending on the sentences and offender behaviour. Recall rates and time recalled will be monitored as part of the evaluation.</p>   |
| <p><b>Electronic monitoring</b></p>   |  |
| <p>Implementation costs include an implementation team who would be required to scope exercise, support implementation and complete analysis as well as costs for the development of crime mapping software.</p>  | <p>These costs assume that no significant technical changes are required to systems and the impact is principally on live run costs. Therefore, implementation costs could potentially be higher than current estimates.</p>   |
| <p>The cost of monitoring an offender per day is assumed to remain the same as existing published unit (i.e. equipment) costs of £12.27 per subject per day.</p>  | <p>The cost of monitoring an offender per day may differ with the introduction of a new contract.</p>  |

<sup>19</sup> MOJ (2020). Offender management statistics quarterly: April to June 2020, <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2020>

<sup>20</sup> Referred to as 'revocation rate' in the report i.e. when tags are removed before the scheduled end of monitoring. MOJ (2019). Process evaluation of the Global Positioning System (GPS) Electronic Monitoring Pilot: Quantitative findings, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814219/process-evaluation-gps.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814219/process-evaluation-gps.pdf)

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| <p>A three-year asset life is assumed. No increased loss of equipment due to the nature of the cohort or additional replacement due to longer use has been assumed.</p>   | <p>It is unknown whether asset life will differ for this cohort of acquisitive offenders.</p>  |
| <p><b>Probation</b></p>   |  |
| <p>Trail monitoring will lead to increased use of probation resource for recommending monitoring, reviewing service-users' progress and behaviour and reviewing non-compliance/recall. It will also require additional time from probation staff. Each week, HMPPS probation service will be expected to spend an estimated additional extra:</p> <ul style="list-style-type: none"> <li>- 10 mins per starts recommending EM;</li> <li>- 1hr 20 mins per wearer reviewing service-user progress and behaviour;</li> <li>- 1hr 15 mins per wearer reviewing non-compliance; and</li> <li>- 1hr 45 mins processing recalls for each recalled offender).</li> </ul> | <p>There is the risk that these estimates may be higher or lower than actual, and therefore impact resource costs.</p>   |
| <p>In PFAs, acquisitive offenders subject to trail monitoring will be managed under IOM unless they qualify for Multi-agency public protection arrangements (MAPPA).</p>  | <p>This project may increase the number of offenders managed under Integrated Offender Management (IOM) in the police forces areas in scope. If the IOM strategy is not delivered consistently across police forces, this may result in a lack of clarity around the impacts of the project and could impact on the reliability of the findings.</p> <p>A joint MoJ/HO strategy for IOM has been published and launched in April 2021. This should help to ensure greater consistency of IOM delivery. The evaluation will continue to provide insights into the resource impact of the project.</p> |
| <p><b>Ministry of Justice Evaluation</b></p>  |  |
| <p>It is assumed research and evaluation will be conducted over a 3-year period from April 2021.</p>  | <p>There is a small risk that the project may not achieve the sample size required for a robust evaluation. It is not expected that the expansion to the project to 13 extra PFAs will increase the research and evaluation costs to MoJ or the time required to complete the project.</p>   |

## G. Wider impacts

### Equalities

55. An Equalities Impact Assessment (EIA) was published in March 2021 for The Compulsory Electronic Monitoring Licence Condition Order 2021. While this SI expands the geographic scope of that Order, it does not make any substantive change to those caught by the measure. Accordingly, we have not

published a new EIA alongside this SI or updated that earlier EIA as we consider it adequately reflects the equalities impact of the measure proposed in both this SI and that earlier Order.

### **Better Regulation**

56. These proposals are exempt from the Small Business Enterprise and Employment Act 2015 and do not count towards the department's Business Impact Target.

### **International Trade**

57. There is no significant impact on international trade.

### **Environmental Impact Assessment**

58. We expect there to be no environmental impacts as a result of the options within this IA.

### **Family Impact Test**

59. There is no significant impact on families.

## **H. Monitoring and Evaluation**

60. The collection of data from this project is vital to build a more complete evidence base on GPS tagging for acquisitive offenders on release from custody, and to help inform the ongoing use of GPS and future policy decisions regarding its further roll-out. We will seek to collect data on the impact on reoffending behaviour; the efficiency of implementation; and the cost effectiveness of the measure.