

<b>Title: Crime and Policing Bill Overview IA</b>  <b>IA No:</b> MoJ017/2024 <b>RPC Reference No:</b> N/A <b>Lead department or agency:</b> Ministry of Justice (MoJ) <b>Other departments or agencies:</b> Home Office, CPS	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> [13/02/2025]			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
<b>Contact for enquiries:</b> [Nicholas.Hatcher@justice.gov.uk]				

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Not applicable
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Cost of Preferred (or more likely) Option			
<b>Total Net Present Social Value</b> £-6.5m	<b>Business Net Present Value</b> £-6.5m	<b>Net cost to business per year</b> £-0.7m	<b>Business Impact Target Status</b> Not a regulatory provision

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

The Crime and Policing Bill includes various legislative measures. These include:

- Extending the use of polygraph testing to offenders who were (i) convicted of murder who are assessed as posing a risk of committing a sexual offence on release, (ii) convicted of concurrent sexual and non-sexual offences, where the sentence for the former expires earlier than release for the latter, or (iii) convicted of a non-terrorism offence with a terrorism connection or where the Secretary of State is satisfied that it took place in the course of an act of terrorism, or was committed for the purposes of terrorism.
- Create consistency and fairness in sentencing for terrorist offenders by (i) amending Northern Ireland legislation to align with the proportionality requirements in England & Wales, (ii) inserting the offence of breaching a foreign travel restriction order into the Counter-Terrorism Act 2008 and the Sentencing Act 2020 to ensure those so convicted receive a sentence for offenders of particular concern (SOPC), and (iii) make equivalent changes in Scotland and Northern Ireland to ensure this applies UK-wide.
- A new legal obligation on offenders serving Community, Suspended Sentence, Youth Rehabilitation, or Referral Orders to notify probation or Youth Offending Teams of any change of name.

Government Intervention is required as all of the above measures require changes to primary legislation.

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

The associated policy objectives are to: improve public protection and reduce the risk of re-offending by giving responsible officers the powers to more effectively monitor offenders in the community; extend the use of polygraph testing so that it can be used to strengthen public protection and risk management of those on licence who pose the greatest risk of sexual harm and re-offending or who were convicted of crimes relating to terrorism; and strengthen public confidence in the justice system and reduce legal challenges by creating greater consistency and fairness in the sentencing of terrorist offenders across the UK.

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

**Option 0:** Do nothing. No changes are made to the criminal law, management of offenders, or wider criminal justice processes.

**Option 1:** Full implementation of the relevant measures in the Crime and Policing Bill.

Option 1 is the preferred option as it best meets strategic and policy objectives.

<b>Will the policy be reviewed?</b> It will not be reviewed. <b>If applicable, set review date:</b> N/A					
Is this measure likely to impact on international trade and investment?					
Are any of these organisations in scope?		<b>Micro</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> 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 **Error! Bookmark not defined.** Minister:

*Alex Davies*

Date:

21.02.2025

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Full implementation of the relevant measures in the Crime and Policing Bill.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2024/25	PV Base Year 2024/25	Time Period 2025/26 - 2034/35	Net Benefit (Present Value (PV)) (£m)		
			Low: £0.0m	High: £-9.0m	Best Estimate: £-6.5m

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0	0
High	£1.1m	1	£0.9m	£9.0m
Best Estimate	£0.9m	1	£0.6m	£6.5m

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

All costs monetised in this IA are those borne by the Government. For the polygraph expansion measures, these include costs for training and quality assuring new polygraph examiners (£3.0m best estimate) and delivery of polygraph examinations (£3.5m best estimate). For the Terrorist Offenders (Restriction of Early Releases) Act 2020 (TORER) measure, these include costs of extra prison places taken up as a result of affected offenders being held in prison for longer, less the reduced costs associated with decreased time spent on probation (£0.0m best estimate).

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

The measures considered in this IA present a range of costs to government bodies including His Majesty's Courts and Tribunal Service (HMCTS), the Judiciary, His Majesty's Prisons and Probation Service (HMPPS), and the public. These costs include costs of additional licence conditions; increased court caseloads; probation officer time; probation office resource use by polygraph examiners; and negligible time and resource costs for legal updates in Northern Ireland.

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

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

No benefits of the measures in this IA have been monetised due to lack of evidence.

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

There are a range of intended benefits that have not been monetised due to uncertainty and a lack of data on the quantifiable impacts of the measures. These include enhanced legal certainty; reduced reputational risk, strengthened public confidence in the justice system; reduced likelihood of legal challenges under the ECHR; possible reductions in reoffending; enhanced compliance with licence conditions; improvements in public safety; and alignment between jurisdictions.

### Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

Measure 1 is sensitive to assumptions over the number of offenders polygraph tested annually, the number of tests per offender, the capacity of each examiner, and the costs which arise from the future resourcing strategy. Measure 2 is sensitive to the uncertain volume of historic terrorism connected offenders and the future cost of additional prison places and increased probation caseload.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m: N/A			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. It is important that criminal justice is administered fairly and consistently and that offenders are managed effectively. These Crime and Policing Bill measures are intended to help ensure consistency in existing legislation and to improve public safety. The key themes of this impact assessment are: expanding polygraph testing, addressing a gap in the sentencing, release and management regime for terrorism offences, protecting the identify of at-risk defendants, and strengthening the monitoring of offenders on licence. The measures in the Bill which are included in this Impact Assessment (IA) are summarised in the table below:

Policy Measure	Policy Description
<b>1A - Extend polygraph testing to serious sexual offenders</b>	<ul style="list-style-type: none"> <li>Extend polygraph testing to offenders convicted of murder where they are assessed as posing a risk of committing a sexual offence on release, and people convicted of concurrent sexual and non-sexual offences, where the sentence for the sexual offence expires earlier than release for the non-sexual offence to be polygraph tested.</li> </ul>
<b>1B - Extend polygraph testing to historic terrorism connected offenders</b>	<ul style="list-style-type: none"> <li>Extend polygraph testing to offenders who committed a non-terrorism offence with a terrorism connection.</li> <li>Enable the Secretary of State to extend polygraph licence conditions to offenders where the SoS is satisfied that the offence was, or took place in the course of, an act of terrorism, or was committed for the purposes of terrorism.</li> </ul>
<b>2A - Length of terrorism sentence with fixed licence period (Northern Ireland sentencing)</b>	<ul style="list-style-type: none"> <li>Create consistency and fairness in sentencing for terrorist offenders across the UK by amending Northern Ireland legislation under Article 15A of the Criminal Justice (Northern Ireland) Order 2008 to align with proportionality requirements in England &amp; Wales.</li> </ul>
<b>2B - Additional offence within scope of terrorism sentencing, release and management regime</b>	<ul style="list-style-type: none"> <li>Insert the offence of breaching a foreign travel restriction order to paragraph 15 of Schedule 5 to the Counter-Terrorism Act 2008 so that it is aligned, for the purposes of sentencing and release arrangements, with other (non-serious) terrorism offences carrying a maximum penalty of more than two years' imprisonment.</li> <li>Add the same offence to Schedules A1 and 13 to the Sentencing Act 2020 to ensure that there is not a requirement for the court to consider whether it has been committed with a terrorist connection and ensure that those convicted for the offence are eligible to receive a sentence for offenders of particular concern (SOPC).</li> <li>Ensure equivalent changes in Scotland and Northern Ireland are made to ensure this applies UK-wide.</li> </ul>

<p><b>3 - Community and suspended sentences (notification of details)</b></p>	<ul style="list-style-type: none"> <li>• A new legal obligation on offenders serving Community, Suspended Sentence, Youth Rehabilitation, or Referral Orders to notify probation or Youth Offending Teams (YOTs) of any change of name.</li> <li>• A change of name includes formal legal changes or the use of an alias, for example, online.</li> <li>• Failure to comply will count as a breach of a requirement of the order.</li> </ul>
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### Measure 1: Expanding Polygraph Testing

2. Polygraph tests measure the physiological changes in the body when the individual being tested is asked certain questions. The polygraph instruments measure changes in heart rate, blood pressure, respiratory rate and sweat and the changes to the individual's normal rates can indicate the person is attempting to be deceptive.
3. Polygraph testing was first piloted in two probation regions in England as an additional risk management measure for eligible high-risk people convicted of sexual offences from 2009. A MoJ evaluation of this pilot was conducted between April 2010 and December 2011 (Gannon et al, 2012)<sup>1</sup> and testing was subsequently rolled out across the remaining regions in 2014. Sections 28-30 of the Offender Management Act 2007 set out the legislative criteria that someone must meet to be eligible.
4. The Counter-Terrorism and Sentencing Act 2021 ("CTSA") extended the condition to specified terrorist offenders, and the polygraph provisions of the Domestic Abuse Act 2021 were brought into force to enable a three-year pilot of polygraph testing with high-risk domestic abuse perpetrators in certain specified police areas (the related MoJ impact, process and value for money evaluations are ongoing).
5. Most recently the Police, Crime, Sentencing and Courts Act 2022 made changes to legislation to ensure that people could be polygraph tested if they were supervised on licence in England and Wales for a wider range of sexual offences, where they had been convicted as a member of the armed forces, overseas or in another part of the British Isles for equivalent polygraph-eligible offences. Since 2014, the Probation Service has carried out over 9,000 polygraph tests.
6. Two legislative measures in the Crime and Policing Bill will further extend the use of polygraph testing. The background for these measures is described below.

#### Measure 1A: Extend polygraph testing to serious sexual offenders

7. This measure will extend polygraph testing to offenders convicted of murder where they are assessed as posing a risk of committing a sexual offence on release, and people convicted of concurrent sexual and non-sexual offences, where the sentence for the sexual offence expires earlier than release for the non-sexual offence to be polygraph tested.
8. Previous evaluation has found that the addition of a polygraph condition to the licence of individuals convicted for eligible sexual offences increases the likelihood of preventative actions being taken by offender managers to protect the public from harm. Nearly half of

<sup>1</sup> [The evaluation of the mandatory polygraph pilot](#)

interviewed individuals who were subject to polygraph testing said that being polygraph tested made them more inclined to abide by their licence conditions (Gannon et al. 2012)<sup>2</sup>.

### **Measure 1B: Extend polygraph testing to historic terrorism connected offenders**

9. The CTSA introduced polygraph testing as a licence condition for individuals who have committed a relevant terrorist offence and who fulfil certain other statutory and policy criteria. 'Relevant terrorist offence' includes those who have committed 'terrorism-connected' offences, where 'terrorism connected' is a statutory sentencing aggravating factor permitting courts to impose a terrorism connection 'label' to offenders who committed a non-terrorism offence with a terrorism connection.
10. The terrorist connection label, introduced by the Counter-Terrorism Act 2008 (CTA), applied to a specific list of non-terrorism offences committed on or after the commencement in 2009 of the CTA. Under the CTSA, a terrorist connection could be found for any non-terrorism offence committed on or after the Act's commencement in 2021, punishable on indictment with more than two years' imprisonment. This means there is a gap in the polygraph testing regime depending on when an offender committed their offence.
11. This measure will fill this gap by expanding the scope for polygraph examinations to individuals who committed a non-terrorism offence that was connected to terrorism before the 2009 commencement of the CTA or who committed such an offence between 2009 and 2021 which fell outside the specified list in the CTA – i.e. where the terrorism connection aggravating factor was not available to the court to apply. The new power will enable the Home Secretary to extend polygraph licence conditions to offenders where the SoS is satisfied that the offence was, or took place in the course of, an act of terrorism, or was committed for the purposes of terrorism.
12. In 2023, a two-year review of polygraph testing of individuals convicted of a relevant terrorist offence concluded that, overall, polygraph testing was an effective risk management tool. Stakeholders considered polygraph examination to provide insight into new risk related information, to contribute to an overall understanding of compliance, and to spur further compliance related investigations (Keeton et al, 2023)<sup>3</sup>.

### **Measure 2: Adjustments to the terrorism sentencing, release and management regime**

#### **Measure 2A: Length of terrorism sentence with fixed licence period (Northern Ireland sentencing)**

13. The CTSA introduced stricter sentencing frameworks for terrorist offenders but inadvertently created a discrepancy between Northern Ireland (NI) and England and Wales (E&W).
14. In E&W, sentencing under the Sentence for Offenders of Particular Concern (SOPC) requires proportionality, while in NI, sentences under Article 15A of the Criminal Justice (Northern Ireland) Order 2008 can be longer and lack the same proportionality requirements.
15. This inconsistency creates potential legal risks, including challenges under Article 7 of the European Convention on Human Rights (ECHR).
16. This measure intends to create consistency and fairness in sentencing for terrorist offenders across the UK by amending NI legislation under Article 15A of the Criminal Justice (Northern Ireland) Order 2008 to align with proportionality requirements in E&W. Where a sentencing

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<sup>2</sup> [The evaluation of the mandatory polygraph pilot](#)

<sup>3</sup> [Use and operation of counter-terrorism polygraph examination - GOV.UK](#)

court in Northern Ireland is handing down this type of sentence, the length of the sentence must be commensurate with the seriousness of the offending.

## **Measure 2B: Additional offence within scope of terrorism sentencing, release and management regime**

17. This measure will make the following legislative changes:

- Insert the offence of breaching a foreign travel restriction order to paragraph 15 of Schedule 5 to the Counter-Terrorism Act 2008 so that it is aligned, for the purposes of sentencing and release arrangements, with other (non-serious) terrorism offences carrying a maximum penalty of more than two years' imprisonment.
- Add the same offence to Schedules A1 and 13 to the Sentencing Act 2020 to ensure that there is not a requirement for the court to consider whether it has been committed with a terrorist connection and ensure that those convicted for the offence are eligible to receive a sentence for offenders of particular concern (SOPC).
- Ensure equivalent changes in Scotland and Northern Ireland are made to ensure this applies UK-wide.

18. The Terrorist Offenders (Restriction of Early Release) (TORER) Act 2020 ended the automatic (i.e. without Parole Board approval) early release of individuals who committed a terrorist offence carrying a maximum penalty of more than two years' imprisonment and increased their release eligibility date from the halfway point of their sentence to the two-thirds point.

19. However, paragraph 15 of Schedule 5 to the Counter-Terrorism Act 2008 (offence of breaching a foreign travel restriction order) is not currently covered by the TORER Act or other relevant legislation, despite having a maximum penalty of five years' imprisonment and being a terrorism specific offence (although other similar orders exist for other types of offence).

20. This measure amends Schedule 5 to the CTA 2008, amends Schedules A1 and A13 to the Sentencing Act 2020, and ensures equivalent changes are made in Scotland and Northern Ireland.

21. Making the changes suggested would ensure consistency with other terrorism offences which are contained in those Schedules, including similar offences involving breaching orders/requirements (e.g. breaching police notification requirements, breaching a TPIM notice and breaching a temporary exclusion order).

22. This change will ensure that all relevant terrorist offending is captured by the TORER Act, and that offenders are subject to the appropriate release eligibility conditions.

## **Measure 3: Community and suspended sentences (notification of details)**

23. It is not currently a requirement for offenders under probation supervision to notify their responsible officer of a change of their name or contact details. Without this information, it can be difficult to effectively monitor these offenders, especially if they breach a requirement of their order.

24. The Government recognises the importance of ensuring that the public are protected and that means ensuring offenders managed in the community can be properly monitored by probation services with the ability for services to take enforcement action where necessary.

25. The Sentencing Code establishes a requirement for an offender to keep in touch with their Responsible Officer. Furthermore, in 2022, secondary legislation was passed requiring offenders on licence to inform their probation or YOT officer if they change their name.
26. However, this secondary legislation covering offenders on licence created an inconsistency for offenders serving a sentence in the community, i.e. Community Orders (COs) and Suspended Sentence Orders (SSOs), as there is currently no existing provision explicitly requiring these offenders to inform the responsible officer if they use a different name or change their contact details.
27. This measure will create a duty on offenders to notify probation or YOTs of any change of name or contact details if they are sentenced to a Community Order, Suspended Sentence Order, Youth Rehabilitation Order, or Referral Order.

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

### **Overarching Policy Rationale**

28. 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 the markets operate or there are strong enough failures in existing Government interventions 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 certain groups in society).
29. The primary rationale for government intervention for these measures are both efficiency and equity: to improve public safety, improve the ability to manage offenders on licence, to create greater consistency in sentencing and to mitigate the risks of reputational harm to and litigation against Government.

### **Policy Objectives**

#### **Measure 1: Expanding Polygraph Testing**

##### **Measure 1A: Extend polygraph testing to serious sexual offenders**

30. The policy objective of extending the use of polygraph testing is to ensure that it can be used to strengthen public protection and risk management of those on licence who pose the greatest risk of sexual harm and re-offending.

##### **Measure 1B Extend polygraph testing to historic terrorism connected offenders**

31. The policy objective of enabling the Secretary of State to extend polygraph licence conditions to offenders where they are satisfied that the offence was, or took place in the course of, an act of terrorism, or was committed for the purposes of terrorism, is to

strengthen public protection and risk management of historic terrorism connected offenders released on licence.

## **Measure 2: Adjustments to the terrorism sentencing, release and management regime**

### **Measure 2A: Length of terrorism sentence with fixed licence period (Northern Ireland sentencing)**

32. This measure's primary policy objective is to create consistency and fairness in sentencing for terrorist offenders across the UK. This will strengthen public confidence in the justice system. It also seeks to avoid the legal risks posed by the current inconsistency, particularly under Article 7 of the European Convention on Human Rights (ECHR). Intervention also ensures fairness, equity, and alignment between jurisdictions whilst mitigating potential challenges.

### **Measure 2B: Additional offence within scope of terrorism sentencing release and management regime**

33. The primary policy objective of this measure is to enable the Government to ensure consistency in the sentencing and management of individuals convicted of a terrorism offence with a maximum penalty of more than two years' imprisonment.

## **Measure 3: Community and suspended sentences (notification of details)**

34. The policy objective is to improve public protection by giving responsible officers the powers they need to monitor offenders more effectively.

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

35. The following groups will be affected by the options considered in this impact assessment (IA):

- Defendants;
- Victims and potential witnesses;
- The Police;
- The Judiciary (including in Northern Ireland);
- His Majesty's Courts and Tribunals Service (HMCTS);
- The Parole Board which is responsible for setting licence conditions for people subject to indeterminate sentences or re-release following recall;
- The Ministry of Justice;
- His Majesty's Prison and Probation Service, the Prison Service ("HMPPS-Prison" Youth Custody Service and the National Probation Service ("HMPPS-Probation");
- Youth offending teams ("YOTs");
- Offenders, including:
  - those on licence for murder, sexual and relevant terrorism connected offences who will become eligible for polygraph testing;
  - those serving existing sentences for the offence of breaching a foreign travel restriction order; and
  - terrorist offenders in NI, whose sentencing will align with proportionality standards in England & Wales;
- The general public in the UK.

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

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

- **Option 0:** Do nothing: Under this option current legislation would continue.
- **Option 1:** Full implementation of the relevant measures in the Crime and Policing Bill.

37. Option 1 is the government's preferred option as it meets strategic and policy objectives.

### **Option 0**

38. Under this option, no changes would be made to current legislation. For the various reasons explained above, this option would not address various issues with current legislation and would therefore not meet the government's policy objectives.

### **Option 1**

#### **Measure 1: Expanding Polygraph Testing**

##### **Measure 1A: Extend polygraph testing to serious sexual offenders**

39. This measure will amend the Offender Management Act 2007, under which polygraph testing will become available to strengthen risk management with:

- People convicted of murder who are assessed by the Secretary of State (on advice from the offender's probation practitioner) as posing a risk of sexual offending upon release.
- People serving concurrent sentences for a sexual and non-sexual offence, where the sentence for the sexual offence terminates before the end of the licence for the non-sexual offence.

##### **Measure 1B: Extend polygraph testing to historic terrorism connected offenders**

40. This measure will amend the Offender Management Act 2007, under which polygraph testing will become available to strengthen risk management with:

- People who were convicted of a non-terrorism offence that they committed before 18 June 2009 (the commencement date of the relevant terrorism connection provisions in the CTA 2008), and who under current legislation would have been designated a 'terrorist connected' offender, and who are still currently serving their sentence either in custody or on licence in the community.
- People who were convicted of a non-terrorism offence not listed in Schedule 2 to the CTA 2008 that they committed on or after 18 June 2009 but before 29 June 2021 (the commencement date of the relevant terrorism connection provisions in the CTSA 2021), and who under current legislation would have been designated a 'terrorist connected' offender, and who are still currently serving their sentence either in custody or on licence in the community.

#### **Measure 2: Adjustments to the terrorism sentencing, release and management regime**

##### **Measure 2A: Length of terrorism sentence with fixed licence period (Northern Ireland sentencing)**

41. This measure involves a narrow legislative amendment to align sentencing provisions for terrorist offenders in NI under Article 15A of the Criminal Justice (Northern Ireland) Order

2008 with those in E&W under the Sentencing Act 2020 (as amended by the Counter-Terrorism and Sentencing Act 2021).

### **Measure 2B: Additional offence within scope of terrorism sentencing, release and management regime**

42. This measure will include the offence of breaching a foreign travel restriction order into the necessary legislation to ensure that all relevant terrorist offending is consistently captured by the TORER Act, and that offenders are subject to the appropriate release eligibility conditions by ensuring that an individual who commits the offence:

- Can no longer receive a standard determinate sentence – if they do not receive a life sentence or an extended sentence, they must receive a ‘sentence for offenders of particular concern’ (or ‘terrorism sentence’ in Northern Ireland and Scotland);
- Will be eligible for risk management powers available for terrorist offenders on licence that apply UK-wide (e.g. power of urgent arrest pending recall decision under section 43B of the Terrorism Act 2000) as well as the polygraph licence condition (which is available in England and Wales only); and
- Can no longer be capable of being found by the court at the point of sentencing to have committed the offence with a terrorist connection.

43. The appropriate legislative changes are to:

- Insert the offence of breaching a foreign travel restriction order to paragraph 15 of Schedule 5 to the Counter-Terrorism Act 2008 so that it is aligned, for the purposes of sentencing and release arrangements, with other (non-serious) terrorism offences carrying a maximum penalty of more than two years’ imprisonment.
- Add the same offence to Schedules A1 and 13 to the Sentencing Act 2020 to ensure that there is not a requirement for the court to consider whether it has been committed with a terrorist connection and ensure that those convicted for the offence are eligible to receive a sentence for offenders of particular concern (SOPC).
- Ensure equivalent changes in Scotland and Northern Ireland are made to ensure this applies UK-wide.

### **Measure 3: Community and suspended sentences (notification of details)**

44. This measure will place a legal obligation on offenders to notify probation or YOTs of any change of name (including formal legal changes of name by deed poll but also, for example, the use of an online alias) if they are sentenced to a Community Order, Suspended Sentence Order, Youth Rehabilitation Order or Referral Order.

45. Under this measure, a duty on offenders (as with offenders on licence) will be introduced, to inform the responsible officer of any additions or changes to contact details, including any phone number or email.

46. Failure to comply with the duty will count as a breach of a requirement in the same way as failure to comply with any other requirement of the order. Where such a breach occurs, an offender could be taken back to court where the judge can revoke the original order and resentence the offender. They then, for example, could impose curfew requirements or unpaid work requirements. The decision whether to return the offender to court for breach will continue to be a matter for the responsible officer.

47. It is expected that the impact of this measure on breach rates and the associated costs will be minimal.
48. Primary legislation is required to amend the Sentencing Code and we do not expect to require any other secondary legislation.

## **E. Costs and Benefits Analysis**

49. This IA follows the procedures and criteria set out in the Impact Assessment Guidance and is consistent with His Majesty's Treasury Green Book guidance.
50. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups, and businesses in Great Britain 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. 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.
51. The costs and benefits of the options are compared to Option 0, the counterfactual or 'do nothing' option. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).
52. The impacts in this IA have been estimated as follows:
- Price base year of 2024/25
  - 10-year appraisal period beginning 2026/26
  - Discounting base year of 2024/25
  - 20% Optimism Bias has been applied to all unit costs.
53. As is the case with Ministry of Justice IAs, we do not assess the direct impacts of punishment on offenders as these are required to uphold the sentence of the court.

### **Option 1: Full implementation of the relevant measures in the Crime and Policing Bill**

#### **Measure 1: Expanding Polygraph Testing**

##### **Measure 1A: Extend polygraph testing to serious sexual offenders**

##### **Measure 1B Extend polygraph testing to historic terrorism connected offenders**

#### **Costs of Measures 1A and 1B**

##### **Monetised Costs**

54. The scenarios analysed in this Impact Assessment differ only in resourcing strategy and cohort sizes.
55. There are two resource options for implementation of this measure. The low scenario involves testing offenders newly in scope by taking from existing polygraph resource (i.e. examiners and budget for testing). This means the new offender cohort will displace offenders who would otherwise have been polygraph tested and for whom testing is discretionary rather than mandatory. Therefore, there is no direct cost impact, rather a reprioritising of existing resource.

56. In the best estimate and high scenarios, new resource is acquired by hiring and training new examiners to meet the new testing demands. This IA details the expected cost impacts in each scenario but does not commit to a resourcing strategy.
57. For the sexual risk cohort, we have assumed a cohort size of 175 (best estimate) or 190 (high) offenders each year through the 10-year appraisal period. Each offender is expected to receive on average 3 polygraph tests annually in the best estimate, and 3.5 tests annually in the high scenario. These costs are included in the total cost impacts.
58. The cohort of historic terrorism connected offenders is assumed to be small and static between scenarios. Each offender is expected to receive on average 3 polygraph tests annually in the best estimate, and 3.5 tests annually in the high scenario. The annual costs of these tests are expected to be small and are included in the total cost impacts.
59. The net present social cost over the 10-year appraisal period of performing polygraph tests for both sexual risk and historic terrorism connected cohorts is expected to be £0.0m in the low scenario (as the total number of tests performed will remain the same), £3.5m in the best estimate scenario, and £4.4m in the high scenario.
60. These measures will incur costs related to training and employing examiners. In the best estimate scenario, the new demand for tests requires four new examiners be hired, with a net present social cost of £3.0m over the 10-year appraisal period. In the high scenario, a fifth examiner must be hired, bringing examiner costs up to a total of £3.8m over the appraisal period. These figures include optimism bias.

### Non-Monetised Costs

#### *Ministry of Justice*

61. It is expected that this measure will involve costs associated with recalls. However, these are not expected to be significant.
62. Whilst the number of people eligible for polygraph testing will increase, existing examiners will not be expected to undertake any more tests than they are currently – either new examiners will be hired, or existing examiners will be expected to prioritise the offenders detailed in this document as mandatory cases in place of some that are currently polygraph tested on a discretionary basis.
63. There are expected to be additional costs associated with increased administration for probation officers making referrals for these additional cases, the scale of which will depend on how much of this cohort is tested within new resource as opposed to current resource. These additional costs are expected to be most strongly felt under the low scenario where the benefits of extending polygraph testing will be partially offset by a reduction in the volume of tests on those currently in scope.

### **Benefits of Measures 1A and 1B**

#### Monetised Benefits

64. Due to a lack of evidence, it has not been possible to monetise the benefits of these measures.
65. The main monetised benefit would be a reduction in costs of crime due to the risk of reoffending being more successfully managed. However, the evaluation of the mandatory

polygraph pilot for people convicted of a sexual offence was not conducted over a long enough period to assess reoffending rates (Gannon et al, 2012)<sup>4</sup>.

66. To date, there have not been enough people convicted of a terrorist related offence subject to polygraph to allow a robust assessment of any change to reoffending rates (Keeton et al, 2023)<sup>5</sup>.

## Non-Monetised Benefits

### *The General Public*

67. Severe harm and risk to the public may be avoided by risk information becoming known early to probation practitioners. Uncovering additional information relevant to an offender's management, supervision, treatment, and risk assessment permits probation practitioners to take greater action to protect the public from harm. Having this condition available may lead to increased confidence about people being released on indeterminate sentences from custody and more effective partnership working through information sharing with agencies such as the Police. People on licence may be more inclined to comply with their licence conditions after receiving regular polygraph testing.

68. In addition to the above, polygraph testing will improve the ability of operational partners to prevent terrorism-related activity.

69. The benefits of these measures depend on the chosen resource strategy. If the specified new offender cohorts are tested using existing resource (therefore taking away tests from other, less prioritised offenders), then the benefits of testing these new cohorts may be offset by disbenefits of reduced polygraph testing elsewhere.

## **Measure 1: Summary**

70. The total NPSV at the end of the appraisal period for these measures, including a 20% optimism bias level, is estimated to be £-6.5m.

## **Measure 2: Adjustments to the terrorism sentencing, release and management regime**

### **Measure 2A: Length of terrorism sentence with fixed licence period (Northern Ireland sentencing)**

#### **Costs of Measure 2A**

##### Monetised Costs

71. This IA does not monetise the operational and administrative costs of this measure as these are expected to be minimal. No significant new resources or infrastructure will be required.

#### **Benefits of Measure 2A**

##### Monetised Benefits

72. Due to a lack of evidence, it has not been possible to monetise the benefits of Measure 2A.

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<sup>4</sup> [The evaluation of the mandatory polygraph pilot](#)

<sup>5</sup> [Use and operation of counter-terrorism polygraph examination - GOV.UK](#)

## Non-Monetised Benefits

73. This measure may have positive impacts on public confidence, social stability, long-term crime and reoffending rates, operational efficiency, and risks of legal challenges under the ECHR, though these are difficult to quantify.

## **Measure 2B: Additional offence within scope of terrorism sentencing, release and management regime**

### **Costs of Measure 2B**

#### Monetised Costs

74. With regard to this measure, no costs other than those directly associated with managing prisons and people on probation are monetised in this IA.

75. This measure implies greater time spent in prison but less time spent on probation for the average offender sentenced under this offence. This will have an additional cost impact due to the greater unit costs associated with prison compared to those of probation.

76. In both the low and the best estimate scenarios, this IA assumes that the observed historical trend of 0 people annually being sentenced for the offence will continue. Based on this assumption, this measure incurs no cost impact as it affects no offenders.

77. However, in the high scenario, this IA assumes 3 offenders will be sentenced under the offence in question per year. This produces an annual cost impact of £0.1m to HMPPS for additional demand for prison and probation services, including optimism bias.

#### Non-Monetised Costs

78. The non-monetised costs associated with this measure are expected to be minimal: it does not introduce any new offences and therefore should not affect court caseload pressures, nor should it affect the work of police investigating the crime in question.

### **Benefits of Measure 2B**

#### Monetised Benefits

79. Due to a lack of evidence, it has not been possible to monetise the benefits of Measure 2B.

#### Non-Monetised Benefits

##### *The General Public*

80. Public safety may benefit by keeping terrorist offenders in prison for a greater proportion of their sentence. Additionally, the increased severity of extra time spent in prison may act as a deterrent against individuals in scope breaching a foreign travel restriction order.

81. The impact of increased sentence severity on reoffending outcomes (positive or negative) has not been monetised due to the lack of available evidence specific to the cohort of individuals affected by this measure.

## **Measure 2: Summary**

82. The total Net Present Social Value (NPSV) at the end of the appraisal period for this measure is estimated to be £0m as the Best Estimate, reflecting the assumption that the historic trend of 0 offenders annually being sentenced under the breach of foreign travel restriction offence will continue in the future.

### **Measure 3: Community and suspended sentences (notification of details)**

#### **Costs of Measure 3**

##### Monetised Costs

83. This IA does not monetise the costs of Measure 3.

##### Non-Monetised Costs

84. Any additional enforcement action taken because of this measure will have resource implications for HMPPS Probation and YOTs and could result in additional breach hearings at court. As court sitting day capacity is fixed, any additional breach hearings are not expected to have direct resource implications for HMCTS, but there may be a knock-on effect on other cases by delaying their start.

85. Any additional breach hearings will also increase the volume of cases entering the courts. This would challenge our efforts to dispose of more cases and therefore likely increase the overall outstanding caseload. Any additional breaches that result in an offender being sent to custody would have impacts for HMPPS Prison and the youth secure estate.

#### **Benefits of Measure 4**

##### Monetised Benefits

86. This IA does not monetise the benefits of Measure 4.

##### Non-Monetised Benefits of Measure 4

87. This measure will improve public protection by strengthening the ability of HMPPS Probation and YOTs to monitor offenders managed in the community under a court order, ensuring the responsible officer has the information that they need to effectively monitor supervised individuals.

88. It is also possible that this measure will provide potential benefits to the rehabilitation of offenders; this is because if the responsible officer doesn't have up to date names or contact details for an offender it makes it harder to engage them in rehabilitative activity.

## **F. Risks and Assumptions**

89. The key assumptions behind the cost benefit analysis presented in this IA are described below. Where applicable, sensitivity analysis is also presented.

### *Assumptions*

#### **Measure 1: Expanding Polygraph Testing**

Assumptions	Risks / uncertainties
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Cohort sizes	<p>We have reasonable confidence in the assumed cohort sizes (SO: 175/190 and CT: small and static between scenarios), as these are based on reliable data for number of offenders currently on licence. The high scenario permits significant flex in the SO cohort size by assuming it increases to approx. 20% above its current value.</p> <p>The terrorist-connected offender cohort size will not increase as it is applicable only to a specific cohort of individuals who committed a terrorism-linked offence before the commencement of the Counter Terrorism Act 2008 (CTA) on 18 June 2009 or who committed a terrorism-linked offence between 2009 and 2021 which fell outside the specified list in Schedule 2 to the CTA.</p>
Unit costs of tests	We have reasonable confidence in the unit cost of a polygraph test, which is an estimate based on inflating to 2024/25 prices the unit cost of a test in 2021.
Resourcing	The best estimate and high scenarios both assume that the offenders in scope of this measure are tested by new resource, i.e. newly hired examiners. The full costs of training and employing these examiners are therefore borne by this measure.
Examiner workload	Assume examiners can perform 168 tests per year, based on historical data.
Examiner costs	Assume costs of training, equipment, quality control, and salary of examiners is £100k in year 1 and £73k thereafter. Based on historical data and on estimated increases in prices offered by suppliers in procurement deals.
Inflation	Assume examiner costs inflate with the Average Weekly Earnings Index (AWE) and assume that test unit costs inflate with CPI.
Optimism bias	An optimism bias level of 20% is assumed.

## Measure 2: Adjustments to the terrorism sentencing, release and management regime

### Measure 2A: Length of terrorism sentence with fixed licence period (Northern Ireland sentencing)

90. We consider any risks resulting from making this change to be minimal. Indeed, by making the change we are ensuring the commensurateness of Northern Ireland sentencing for terrorist offenders with that of England and Wales.

### Measure 2B: Additional offence within scope of terrorism sentencing, release and management regime

91. The key assumptions and risks underlying the impacts of this measure are described in the table below.

Assumptions	Risks / uncertainties
<b>Cohort sizes</b>	Assume 3 individuals are sentenced annually for the offence impacted by this measure in the high scenario. In the low and best estimate scenarios, assume 0 individuals sentenced annually for the offence in question.

	This assumption is informed by the fact that no offender has been sentenced under the specific breach of foreign travel restriction measure since its introduction in 2009. As a result, the offending cohort, if in fact surpassing zero, is expected to be very small.
<b>Unit costs</b>	Assume unit cost of one prison place per year to be £52,418 in 2023/24 prices and marginal cost of one additional person on the probation caseload to be approximately £4500. This assumption is taken from the most recent publicly available data.
<b>Average sentence length</b>	Assume average total sentence length for offenders in scope is 4 years in the high scenario.  This assumption is informed by the fact that the measure in question yields a maximum sentence length of 5 years. As such, the average sentence length is expected to be shy of this maximum.
<b>Time for release after eligibility</b>	Assume offenders on average released at eligibility date plus an additional 10% of their minimum time in prison. For example, an offender eligible for release after 4 years in prison would expect to be released after 4.4 years. This assumption is informed by the fact that not all offenders are released immediately after release eligibility.  The accuracy of this assumption may affect the accuracy of estimated cost impacts of this measure. For example, if offenders in scope are in practice (for both BAU and Option 1) not released after becoming eligible for release but are held in prison until the end of their sentence, then a movement of their eligibility window will have no impact on costs regardless of how large the offending cohort is.
<b>Inflation</b>	Assume unit costs of persons in prison / on probation inflate with AWE.
<b>Optimism bias</b>	An optimism bias level of 20% is assumed.

### **Measure 3: Community and suspended sentences (notification of details)**

92. It is expected that the impact of this measure on breach rates and the associated costs will be minimal.

#### Wider Impacts

#### **Equalities**

93. An Equalities Impact Assessment has been carried out in addition to this IA.

#### **Better Regulation**

94. These proposals are out of scope of the Government's Better Regulation Framework.

#### **Environmental Impact Assessment**

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

## **International Trade**

96. There are no international trade implications from the options considered in this IA.

## **H. Monitoring and Evaluation**

### **Measures 1 and 3**

97. The provisions in the Bill will be subject to post-legislative review three to five years after Royal Assent.

### **Measure 2: Adjustments to the terrorism sentencing, release and management regime**

98. The impact of the changes will be monitored closely by MoJ and HMPPS jointly. The Independent Reviewer of Terrorism Legislation also has routine oversight of the operation of the relevant Terrorism Acts and the provisions in the Bill will also be subject to post-legislative review three to five years after Royal Assent.