Title: Electronic monitoring of whereabouts as a compulsory licence condition.	Impact Assessment (IA)
IA No: MoJ004/14	**Date:** 05/02/2014
Lead department or agency: Ministry of Justice	**Stage:** Introduction of Legislation
	Source of intervention: Domestic
	Type of measure: Primary legislation
Other departments or agencies: NA	**Contact for enquiries:** general.queries@justice.gsi.gov.uk

Summary: Intervention and Options

RPC Opinion: NA

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
Unknown	£0	£0	No	Zero net cost

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

Although the Government has done much to improve the criminal justice landscape, re-offending rates are still too high, and particularly so for those offenders subject to short custodial sentences. Further deterrents are needed to discourage offenders from returning to crime and the Government is committed to driving down re-offending and offending in general, using the latest available technologies to achieve this where feasible.

What are the policy objectives and the intended effects?

The main objectives of this policy are:

- To deter offenders from re-offending following release from custody. Reducing re-offending is a top Ministerial priority, as it causes harm to the public and leads to costs to the criminal justice system (CJS) and society more widely.

- To provide additional public and victim protection, by enabling known offenders to be monitored following their release from custody, and to enforce more robustly other licence conditions such as exclusion zones.

The intended effects of being able to monitor the location of offenders include reductions in re-offending and crime in general, and an increased level of public protection. Sharing of the location information gathered with the police (subject to an appropriate code of practice) will also have the secondary benefit of them being able to investigate crimes more effectively.
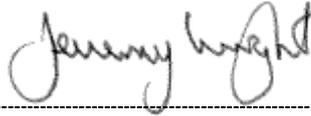
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

- Option 0: Do nothing – Electronic Location Monitoring (ELM) remains a discretionary licence condition, with decisions being taken on a case by case basis, based on the needs of the individual offender.
- Option 1: Introduction of a power to provide for ELM as a compulsory licence condition for offenders, where there are strong benefits to society of doing so.

Option 1 is our preferred option, because it will allow the Government to use available technology to address high re-offending rates across different offender groups, and should lead to CJS and wider savings.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** Introduction of ELM as a compulsory licence condition for specified groups of offenders will be reviewed and implemented where there are strong benefits to society of doing so.					
Does implementation go beyond minimum EU requirements?			NA		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro**	**< 20**	**Small**	**Medium**	**Large**
	No	No	No	No	No
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:**	
			NA	NA	

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 SELECT SIGNATORY: _____   Date: _____ 05/02/2014

Summary: Analysis & Evidence

Policy Option 1

Description: Introduction of a power to provide for ELM as a compulsory licence condition for offenders, where there are strong benefits to society of doing so.

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
2013/14	2013/14	NA	**Low:** Unknown	**High:** Unknown	**Best Estimate:** Unknown

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Unknown		Unknown	Unknown
High	Unknown		Unknown	Unknown
Best Estimate				

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

It is not possible at this stage to provide the costs associated with ELM hardware and service provision, due to the ongoing process of procuring the equipment and associated services from private sector providers.

We are not able to quantify costs associated with the implementation of ELM at this stage, as ELM is not currently in widespread use in England and Wales. The following costs will be relevant:

- Multipurpose Ankle Tag (MAT) equipment and related hardware costs
- Cost of monitoring
- Cost of Network provision
- Costs to offender managers of dealing with breaches
- Police enforcement and other CJS costs associated with investigating and prosecuting further offending
- Additional prison places from breach of licence and improved detection rates
- Cost of equipment failure/damage

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

None identified.

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

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

Though benefits likely to arise from the increased use of ELM have been identified, we are not able to quantify these benefits at this stage, as ELM is not yet in widespread use in England and Wales. As such, we are unable to calculate impact.

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

Qualitative evidence from a government pilot in three areas of England and Wales between 2004 and 2005[1] suggests that ELM may be effective in deterring criminals from re-offending. However, due to study design constraints, it was not possible to measure the actual impact of ELM on re-offending rates within this study. Any such deterrent effect would lead to reduced costs to the CJS.

The use of ELM as a compulsory licence requirement may lead to increased levels of public and victim confidence in the CJS, as a result of the increases in public protection associated with ELM.

It may also lead to quicker detection of re-offending, resulting from the availability of location data from ELM MATs, which will increase efficiency by enabling offenders to be dealt with by the police and CJS in a more timely manner.

There is also the potential for reduced social costs associated with re-offending behaviour as crime imposes costs on society, notably the physical, emotional and financial impact on victims.

Key assumptions/sensitivities/risks	Discount rate (%)	NA

There is a risk that the technology may not be able to reliably deliver the required service at a cost which delivers the anticipated value-for-money.

There is a further risk that the use of ELM will fail to provide the expected level of deterrent effect.

Additionally, the volume of offences likely to be detected as a result of ELM which would previously have gone undetected is unknown. As such, there is a risk that an increased detection in re-offending could result in an increased burden on the CJS.

Finally, new licence conditions associated specifically with the ELM requirement (e.g. requirements related to battery charging) may lead to an increase in breaches, and as a result, prison places.

BUSINESS ASSESSMENT (Option 1)

| Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: NA	**Benefits:** NA	**Net:** NA	No	Zero net cost

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[1] Shute, Stephen (2007) Satellite tracking of offenders: a study of the pilots in England and Wales. Project Report. Ministry of Justice, London

Evidence Base (for summary sheets)

<u>Problem under consideration</u>

1. Re-offending rates remain high, and particularly so for those offenders subject to short custodial sentences, as can be seen in Chart 1.

Chart 1: 10 year re-offending rates, broken down by offender groups[2,3]
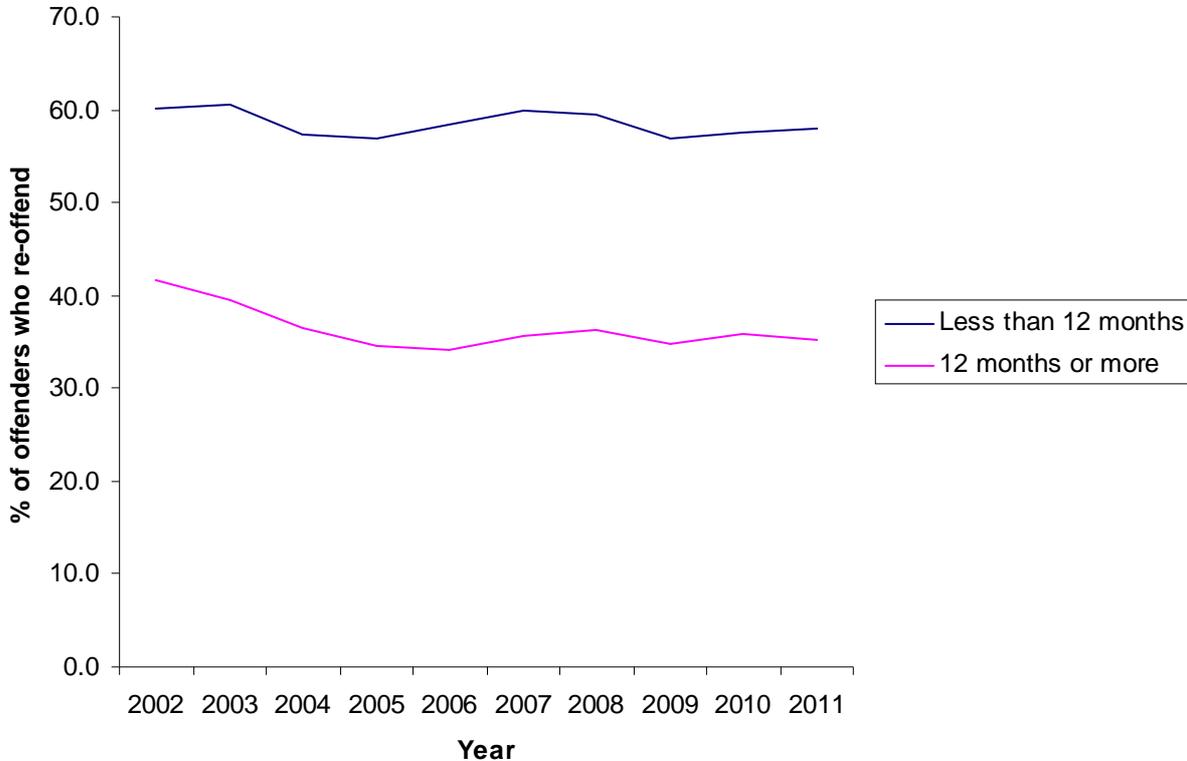
2. This policy will assist the police when detecting and investigating crime as they will be able to access and use recorded location data quickly to include/exclude offenders from their investigations. It is hoped that such use of location data will result in more cases being solved in quicker time frames leading to increased CJS efficiency and resource allocation.

3. The proposals in the Bill will impact on several groups of offenders:

Those released from short custodial sentences (<12 months)

4. In 2011, around 50,000 adult offenders were released from prison after serving custodial sentences of less than 12 months[4]. 58.1% of adult offenders sentenced to less than 12 months' immediate custody and released in the year ending December 2011, re-offended within one year, committing an average of 4.91 further offences per re-offender over that time[5].

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[2] Proven re-offending statistics quarterly publication, Ministry of Justice

[3] This chart does not include proven re-offending rates for indeterminate sentenced offenders, as this data was not available over the full 10 year period.

[4] Transforming Rehabilitation, A Strategy for Reform. This figure includes offenders released from court after serving their sentence on remand. Furthermore, an offender is counted more than once if they are released from prison more than once over the 12 month period.

[5] Proven re-offending statistics quarterly publication, Ministry of Justice. Proven re-offending rates are based on a cohort of 29,691 who were released from an immediate custodial sentence of less than 12 months in the year ending December 2011. Note that a certain proportion of offenders who could not be matched to the Police National Computer are excluded from the offender cohort. Therefore, this number does not represent all proven offenders. Additionally, an offender is counted only once as proven re-offending is measured from an offender's first release over the 12 month cohort period.

5. The majority of these offenders are not currently managed in the community after release; however the Offender Rehabilitation Bill will extend licence after release to include offenders sentenced to short custodial sentences. This group of offenders, along with those serving sentences of 12 months or more but less than 2 years, will also be subject to a new supervision period for the purposes of rehabilitation which, when added to licence, will mean both groups will be subject to 12 months of statutory rehabilitation after release.

Those released from longer determinate sentences (>12 months)

6. In 2011, around 39,000 adult offenders were released from prison after serving custodial sentences of 12 months or more[6]. 35.1% of adult offenders sentenced to an immediate custodial sentence of 12 months or more and released in the year ending December 2011, re-offended within one year, committing an average of 3.02 further offences per re-offender over that time[7].

Those released on IPP and life sentences

7. In 2011, around 500 adult offenders were released from prison after serving indeterminate custodial sentences[8]. 8.2% of Imprisonment for Public Protection (IPP) sentenced offenders, 2.3% of Mandatory Life Penalty (MLP) sentenced offenders and 8.9% of other lifers released from custody in the year ending December 2011, re-offended within one year, committing an average of 1.91, 1.00 and 1.40 further offences respectively per re-offender over that time[9].

Existing evidence of effectiveness

8. Electronic Monitoring (EM) is already in widespread use in the UK and internationally (for example many parts of Scandinavia). Much of its current use is based on Radio Frequency (RF) systems to monitor a person's distance from a fixed location (typically in support of home curfew conditions). RF technology is not able to provide location monitoring functionality, making the findings from supporting evaluations limited in application. However, there is emerging evidence of ELM effectiveness in countries where this technology is beginning to become more common, in particular the UK and US as set out below.

9. ELM has been piloted with adult and young offenders by the Home Office in Greater Manchester, Hampshire, and the West Midlands between 2004 and 2005 (Shute, 2007[10]). The aims of the trial were to gain experience of tracking technology, learn how to implement and target tracking effectively and to introduce a new community order requirement, 'the exclusion requirement'

10. The pilots involved 336 offenders who were given a satellite tracking requirement as part of their licence conditions or community order. Tracking was used to monitor compliance with exclusion zones or to provide 'general location monitoring' where no exclusion zone was in place, or both things together. The

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[6] Further analysis of Annual Discharges Tables, Ministry of Justice.

[7] Proven re-offending statistics quarterly publication, Ministry of Justice. Proven re-offending rates are based on a cohort of 29,168 who were released from an immediate custodial sentence of 12 months or more in the year ending December 2011. Excludes indeterminate sentences for public protection and life sentence prisoners. Note that a certain proportion of offenders who could not be matched to the Police National Computer are excluded from the offender cohort. Therefore, this number does not represent all proven offenders. Additionally, an offender is counted only once as proven re-offending is measured from an offender's first release over the 12 month cohort period.

[8] Further analysis of Annual Discharges Tables, Ministry of Justice.

[9] Proven re-offending statistics quarterly publication, Ministry of Justice. Proven re-offending rates are based on a cohort of 454 who were released from an indeterminate custodial sentence in the year ending December 2011. Note that a certain proportion of offenders who could not be matched to the Police National Computer are excluded from the offender cohort. Therefore, this number does not represent all proven offenders. Additionally, an offender is counted only once as proven re-offending is measured from an offender's first release over the 12 month cohort period.

[10] Shute, Stephen (2007) Satellite tracking of offenders: a study of the pilots in England and Wales. Project Report. Ministry of Justice, London

pilot was evaluated using a variety of methods including analysis of various criminal justice and electronic monitoring records, observation-based research, practitioner questionnaires, and interviews with offenders and practitioners. Although it was not possible to carry out a robust reoffending impact analysis (the majority of offenders were on specific local programmes which meant they could not be 'matched' statistically to a control group), there was qualitative evidence that ELM:

- Acted as a deterrent because offenders thought they would be caught if they were to reoffend.
- Was a constant reminder which prompted offenders to 'think twice' when a criminal opportunity presented itself and gave them the spur they needed to walk away.
- Provided offenders with renewed determination to get their lives back together after a period of incarceration.
- Was perceived by offenders to help stop wrongful identification for crimes they hadn't done.

11. In all the pilot areas satellite tracking also provided evidence which assisted the police and CPS. For example maps presented to offenders helped secure confessions, tracking evidence was used in support of CCTV evidence where it was unclear, and police were able to follow offender's routes following crime to locate stolen goods. There were also several cases where tracked offenders were eliminated from enquiries where they would otherwise have been suspects.

12. Of the 336 offenders, 58% were recalled to custody or had the order revoked. Of these, 19% were identified due to information solely from the tracking technology. A further 26% were due to evidence from tracking and other sources combined.

13. There is also emerging international evidence, in particular from the US where ELM is already in mainstream use in several States. Quantitative analysis carried out in Florida (2011)[11] on 5,000 medium and high risk offenders showed decreases in the recidivism rate for all groups of offenders, which were similar in scale for all age groups. More specifically:

- ELM reduced offenders' risk of failure (reoffending or failure to comply with conditions) by 31 percent.
- ELM based on Global Positioning Systems (GPS) typically has more of an effect on reducing failure to comply than Radio Frequency (RF) systems.
- ELM had greatest impact on sex, property and drug offenders. Impact on violent offenders was lower but still statistically significant.

Rationale for intervention

14. Although the Government has done much to improve the criminal justice landscape, re-offending rates are still too high, and particularly so for those offenders subject to short custodial sentences. Further deterrents are needed to discourage offenders from returning to old patterns and the Government is committed to driving down re-offending and offending in general, using the latest available technologies to achieve this where feasible.

15. Recent developments in ELM technology have resulted in lower costs and increased reliability, meaning that the use of this technology in the offender management process may help to reduce re-offending, by increasing the deterrent effect to offenders. At present however, legislative powers are not available to enable the Secretary of State to impose ELM as a compulsory licence condition on offenders (both those serving determinate and indeterminate sentences) on release from custody.

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[11] US Department of Justice, 2011. https://www.ncjrs.gov/pdffiles1/nij/234460.pdf

16. The main objective of this policy is to increase the deterrent preventing offenders from re-offending following release from custody. This is a priority of the Ministry of Justice, as re-offending is associated with both financial and social costs to the public. It is envisaged that the monitoring of location data will deter offenders from committing further offences as a result of readily available data which will support legal proceedings against them, and thus result in further sanctions.

17. The policy may increase public and victim protection, by enabling the locations of known offenders to be monitored following their release from custody. It is envisaged that the use of exclusion zones will enable alerts to be raised in the event of offenders entering a location which they are prohibited from visiting by the terms of their licence. Such exclusion zones could be used to deter offenders from visiting known victims or witnesses, or premises where there is a higher risk of offending. The use of alerts may provide earlier warning of likely harmful behaviour, and may be used by the police in the allocation of resources.

18. In permitting the use of ELM as a compulsory licence condition for specified groups of offenders, this policy will enable ELM to be focussed on the groups of offenders for whom it is likely to be most effective in supporting the offender management process and deterring re-offending.

19. It is also expected that this policy will assist the police when detecting and investigating crime as they will be able to access and use recorded location data quickly to include/exclude offenders from their investigations. It is hoped that such use of location data will result in more cases being solved in quicker time frames leading to increased CJS efficiency and resource allocation.

Description of options considered

Option 0: Do nothing

20. Doing nothing would mean that ELM remains solely a discretionary licence condition, with decisions in respect of determinate sentence prisoners being taken on a case by case basis by the governor of a discharging prison on behalf of the Secretary of State for Justice, based on the needs of the individual offender. The decision on whether to impose ELM as a licence condition on an indeterminate sentence prisoner would remain with the Parole Board.

21. This option is being rejected as doing nothing would mean that the Government would not be taking full advantage of developments in technology to deter re-offending on release from custody and protect the public, in that not all suitable offenders would be fitted with MATs.

Option 1: Introduction of a power to provide for ELM as a compulsory licence condition for offenders, where there are strong benefits to society of doing so

22. The Government would like to take advantage of recent developments in satellite tracking technology when managing offenders on release from custody. This policy will achieve this through the introduction of an order making power which would allow for ELM to be imposed as a compulsory licence condition, with the ability to focus the licence requirement on certain groups of offenders, where we consider there to be a benefit to society.

23. The location monitoring data gathered may also be used in the investigation of crime. The police will be able to request data on certain offenders when investigating particular crimes, and this could be used in

evidence to place a suspect at the scene of a crime, or conversely to rule a suspect out of the investigation. There is provision for a code of practice setting out the appropriate tests and safeguards for the use, retention and sharing of any collected data.

<u>Costs</u>

24. It is not possible at this stage to fully assess the potential cost of ELM. We are currently re-competing the EM contracts to private sector providers (with the costs being paid for by the National Offender Management Service - NOMS), with the aim of driving down unit costs and introducing new satellite tracking technology over the current spending review period. The unit costs are subject to the outcome of this competition.

25. Other costs, such as the cost of (potential) prison place increases or ELM breach costs, cannot be accurately estimated, as this technology is not currently in widespread use in England and Wales.

26. Hardware costs will be predominantly associated with the MATs, which are worn by offenders, and the home beacon units which are used to transmit data when the two devices are in close proximity. At present, we expect that the MATs will have a useful life of 3 years (subject to reasonable usage), however this has not yet been confirmed by field testing. Additional costs will relate to the straps used to attach the MATs to the ankles of offenders, and the cost of fitting the MATs at the point when offenders are released from prison.

27. In order to transmit data from the MATs and home beacons to data storage and processing centres, a network provision cost will be incurred. In addition to this, monitoring charges will relate to the handling and processing of recorded location data.

28. The use of ELM will introduce a series of new ways in which an offender may breach their licence, such as offenders tampering with or removing the MAT, or failing to comply with battery charging requirements. These breaches will require an administrative response by offender managers, which will incur an associated cost. In some cases this breach response will involve returning the offenders to prison, resulting in costs to the CJS.

29. There will be costs associated with equipment damage and failure. The wilful damage of some MATs by offenders will be inherent to their usage, and in order to maintain the credibility of the policy, it will be necessary to replace these MATs once breach action has been taken against the offender in question. Additionally, as with all technology-driven devices, we expect there may be some instances of natural equipment failure, which will result in the need to replace equipment.

30. In addition to the CJS costs associated with response to breaches, there will be additional costs to the CJS arising from increased offence detection rates, as a result of the use of ELM.

<u>Benefits</u>

31. ELM may discourage offenders from committing further offences. Reducing re-offending reduces the physical, emotional and financial costs to victims, as well as the financial costs to the CJS.

32. There may be improvements in public protection achieved through increased crime detection rates. There may also be increased public, victim and witness confidence in the CJS if the public has greater reassurance that offenders are subject to ELM, and that the breach of exclusion zones by offenders can be more readily detected.

33. Tracking may also assist the police in the investigation of crimes. Access to the location data of known offenders is likely to speed up the investigation process of crimes committed by offenders subject to ELM.

34. It is not currently possible to quantify the value of expected benefits, as ELM technology is not yet in widespread use in England and Wales.

Summary

35. The costs have to be balanced against the considerably larger potential benefits. The evidence presented above suggests that ELM has the potential to reduce reoffending and increase the likelihood of detection. Given the very large costs involved with crime to society we anticipate that the benefits of this policy should outweigh the costs involved.

36. In permitting the use of ELM as a compulsory licence condition for specified groups of offenders, this policy will enable ELM to be focussed on the groups of offenders for whom it is likely to be most effective in supporting the offender management process and deterring re-offending. This should ensure that costs are only incurred when there is a reasonable expectation that the benefits will outweigh the cost for this group of offenders.

Assumptions and Risks

Assumption	Risk
The EM contract competition will provide location monitoring technology at an acceptable cost.	There are risks associated with the ongoing nature of the competition for EM contracts to private sector providers. Adverse changes in the state of the competition could cause increases to expected costs. Furthermore, as the ELM technology is not currently in widespread use, there is a risk that the technology will not deliver the expected results.
The location monitoring of offenders will deter them from re-offending.	There is a further risk that the use of ELM will fail to provide the expected level of deterrent effect, and thus might not provide the expected value-for-money. It is not currently possible to accurately attribute reductions in re-offending to the use of ELM, as the technology is relatively new.
The introduction of ELM technology will not adversely affect compliance with licence conditions.	Finally, new licence conditions associated specifically with the ELM requirements (e.g. requirements related to battery charging) may lead to an increase in breaches, and as a result, in probation workload and recalls to custody. Responding to breach alerts, and any associated revocation/recall procedures carry resource and cost implications for police, offender managers and the court and prison service.