

<b>Title:</b> <b>MP Recall</b> <b>Lead department or agency:</b> Cabinet Office <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b>
	<b>Date:</b> 26/06/2014
	<b>Stage:</b> Consultation
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
	<b>Contact for enquiries:</b> Sarah Bailey 020 727 1773 sarah.bailey@cabinet-office.gsi.gov.uk

## Summary: Intervention and Options

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

In certain circumstances under the existing disciplinary arrangements an MP may be found to have committed a serious wrongdoing but can retain their seat without having to account to their constituents until the next election. The Government has given a commitment in the Coalition Programme for Government to bring forward legislation to introduce a power of recall, allowing voters to force a by-election where an MP is found to have engaged in serious wrongdoing and having had a petition calling for a by-election signed by at least 10% of his or her constituents. The Government believes this mechanism will contribute to restoring public confidence in MPs and Parliament as a whole.

### What are the policy objectives and the intended effects?

The legislation we are proposing is intended to give constituents the power to recall their MP under certain conditions. If one of two triggers occurs, a recall petition will be opened. These triggers are: (1) an MP is convicted in the UK of an offence and receives a custodial sentence of 12 months or less (the Representation of the People Act 1981 only disqualifies Members who receive custodial sentences of more than 12 months) (2) the House of Commons has suspended the MP for 21 sitting days or more for a serious breach of the MPs Code of Conduct. Once a recall petition has been opened, if 10% or more of the MP's constituents sign the recall petition, the MP will face a by-election and could lose their seat.

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

0) Base Case - do nothing. Continue with the present arrangements; automatic disqualification if an MP is imprisoned for a period of more than 12 months or another disciplinary sanction (such as apology or suspension) decided by the House for any other wrongdoing.

1) Option 1 - Provide an automatic recall petition trigger if an MP has been given a prison sentence of 12 months or less, and if an MP has been suspended from the House for 21 sitting days or more for a serious breach of the MPs Code of Conduct.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** Month/Year

**What is the basis for this review?** PIR. **If applicable, set sunset clause date:** Month/Year

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

No

**SELECT SIGNATORY Sign-off** For consultation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister: \_\_\_\_\_

Date: \_\_\_\_\_

# Summary: Analysis and Evidence

# Policy Option 1

## Description:

Full Economic Assessment

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £0.06

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	£0.06*		£0.06*

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

\*The cost attributed to the conduct of one recall petition is estimated to be in the region of £55,000. We are unable to estimate how often the recall process will be used so the numbers in this IA show the estimated cost of one recall petition. The purpose of this policy is to give the public a new and important power – for the first time, they will be able to hold their MPs to account, outside of a General Election, in the event that they are found guilty of serious wrongdoing.

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

N/A

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'

N/A

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

Constituents will benefit from being involved in the process of holding their MP to account. This recall model would allow constituents the power to force a by-election, a power not seen before and one which will help to restore the electorate's faith and trust in Parliament.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

There are no specific risks arising from the Bill, although our proposals will attract significant parliamentary and public attention.

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

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	United Kingdom				
From what date will the policy be implemented?	TBC				
Which organisation(s) will enforce the policy?	Cabinet Office, Local Authorities and the Electoral Commission				
What is the annual change in enforcement cost (£m)?	Unknown				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 100		Benefits: N/A		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	X
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	X
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	X
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	X
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	X
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	X
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	X
Justice system <a href="#">Justice Impact Test guidance</a>	Yes	9
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	X
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	X

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	The Government previously published a White Paper and draft Bill in 2011 (amended for 2014 introduction): <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62227/Recall_of_MPs_Draft_Bill.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62227/Recall_of_MPs_Draft_Bill.pdf</a>
2	
3	
4	

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>										
<b>Total annual costs</b>										
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>										
<b>Total annual benefits</b>										

\* For non-monetised benefits please see summary pages and main evidence base section

# Evidence Base (for summary sheets)

## Evidence Base

### 1. Problem under consideration and rationale for intervention:

Under existing procedures, the House of Commons can discipline its MPs with various sanctions depending on the severity of the misconduct. Disciplinary sanctions imposed by the House include expulsion, suspension, withholding pay and requiring a member to make an apology to the House. In addition to this the Representation of the People Act 1981 provides that an MP is automatically disqualified if they are imprisoned in the British Isles for more than 12 months.

At present, the decision on whether an MP's misconduct should result in a by-election lies solely with the House of Commons and constituents have no role in deciding whether an MP's misconduct should trigger a by-election.

However, following the expenses scandal all three main political parties committed to introducing some form of recall mechanism in their manifestos at the 2010 General Election. The recall mechanism the Government is proposing is intended to give constituents the power to force a by-election where an MP is found to have engaged in serious wrongdoing.

The Coalition Programme for Government contained a commitment to:

*“bring forward early legislation to introduce a power of recall, allowing voters to force a by-election where an MP is found to have engaged in serious wrongdoing and having had a petition calling for a by-election signed by at least 10% of his or her constituents”.*

The Government believes this recall mechanism will go some way to restoring public confidence in MPs and Parliament as a whole.

### 2. Policy Objective

The Government's proposals are designed to give constituents the power to force a by-election where an MP is found to have engaged in serious wrongdoing. The draft legislation will provide that a recall petition will be triggered where:

- an MP is convicted in the UK of an offence and receives a custodial sentence of 12 months or less (the Representation of the People Act 1981 only disqualifies Members who receive custodial sentences of more than 12 months); or
- the House of Commons suspends an MP 21 days or more for a serious breach of the Code of Conduct for MPs

Once a recall petition has been opened, if 10% or more of the constituents on the electoral register in the constituency sign the recall petition, a by-election will automatically be triggered and voters will have the final say on the MP's future.

### **3. Description of Options considered**

#### **Base Option: Do nothing.**

Whilst the House of Commons will still have the power to discipline its members, provision does not exist to trigger a recall petition which would allow constituents to decide whether the MP should face a by-election as a result of their misconduct. Doing nothing therefore does not fulfill the commitment in the Coalition Programme for Government.

#### **Costs:**

The monetary cost of doing nothing is zero. However, this would not meet the Government's policy objective.

#### **Benefits:**

The ultimate aim is to enable constituents to have a choice on whether to call a by-election. If no recall mechanism was in place, there would be no facility for constituents to have a say as to whether a by-election should be triggered.

This option would not meet the commitment to establish a recall mechanism set out in the Coalition Programme for Government.

#### **Option 1:**

This option would establish a recall mechanism with two triggers designed to capture a broad range of serious wrongdoing. The first is that a recall petition would automatically be opened where an MP is given a custodial sentence of 12 months or less. The second is that the House of Commons triggers a recall petition when it suspends a Member for 21 sitting days or less for a serious breach of the MPs Code of conduct.

The House of Commons has in place a complaints procedure under which any member of the public may make a complaint about an MP's conduct to the Parliamentary Commissioner for Standards. The Commissioner will consider the complaint and, following investigation, may report the matter to the Committee for Standards. The Committee will recommend to the House what action, if any, should be taken, and under these proposals, if they recommend a suspension of 21 sitting days or more and that is endorsed by the House, the Member will also face a recall petition.

The recall petition will broadly follow existing electoral practices and will be administered by a local Returning Officer to be known as a 'Petition Officer' for the purposes of administering recall petitions. Each eligible constituent who asks for one will be issued with a personal signature sheet to sign. Existing eligible postal voters will automatically receive postal petition signature sheets with instructions on the nature of the process.

If the recall petition is signed by at least 10% of his or her constituents the Member's seat will be vacated and a by-election will be called.

## **Costs:**

The costs of this proposal relate to the actual administrative costs of conducting a recall petition. The cost attributed to the conduct of a recall petition in the United Kingdom has been estimated to be approximately £55,000. The cost of any recall petition will be paid from the consolidated fund. We expect the recall petition process to be used rarely in circumstances where one of the two triggers is met by the MP concerned.

Costs have been calculated by considering all activities and their associated costs, and are rounded to the nearest hundred pounds. The data has been sourced from conversations with authority stakeholders and experts. The figures below show the estimated costs of one recall petition.

### Petition Officer cost:

We expect a Petition Officer to supervise and oversee the running of a Recall Petition. We estimate that a Petition Officer will be paid a fee of £500 for their time and work.

In addition, the Cabinet Office will provide an indemnity in respect of certain reasonable liabilities to which a Petition Officer might be subject as a result of him/her carrying on their duties as Petition Officer in relation to the conduct of those recall petitions for which he/she is responsible. Claims for indemnities are expected to be rare and as the amount of any indemnity is unknown, no figure is provided for this potential additional expenditure.

### Petition notice card costs:

Petition notice cards will be sent to constituents to advise them when a petition is open and let them know how they can go about signing it if they wish.

A total of £20,891, which breaks down into: staff preparation costs (£661), postage costs (£17,190), printing and stationary (£3,024), and other equipment (£16).

### Petition signing place cost:

There will also be a number of costs associated with running a petition signing place (which will be located in existing local authority buildings designated by the Petition Officer as petition signing places) where members of the public will be able to sign the petition in person. The petition signing place will be staffed by an existing petition clerk. The clerk will be required to supervise the signing of the petition and make sure that constituents are aware of what they need to do. We estimate that this will require 1 hour of their time each working day over the eight weeks that the petition is open. We also estimate that a further one off 1 hour of training will be needed to familiarise themselves with the process. Petition Officers can designate up to 4 petition signing places if they think it necessary so the cost below may increase accordingly (the figures below are for one petition signing place only).

The calculation is therefore:

40 days the petition is open = 40 hours of time

1 hour training session

Hourly wage rate = £12.20

Overheads (These are the further costs of employing someone beyond their actual wage e.g. NIC's, pension payments etc) = 30%

$$40 \times \pounds 15.86 = \underline{\pounds 634}$$

There will also be a small cost for office equipment, including the cost of the petition signature sheets, which is estimated to be £100.

#### Postal petition signature costs:

Postal signature sheets will be sent to those eligible constituents who are already registered for postal voting. The signature sheets will include information on the nature of the process.

A total of £23,051 which breaks down into: staff preparation and issuing (£1,600), staff opening and checking (£3,980), training (£90), printing and stationery (£7,686), postage (£7,986) and equipment (£1,709).

#### Counting costs:

A total of £600 is required for the cost of counting petition signature sheets. This is based on an assumption that it will take two administrators (paid an average hourly wage of £12.50 per hour each) one working day to complete the count (£12.50 x 30% overheads x 8 hours x 2 administrators = £260). It will ultimately be a matter for Petition Officers to decide whether to use additional staff over a shorter timeframe in order to complete the count more quickly.

Office equipment costs are estimated to be in the region of £200 and security costs will be £140 (for one additional member of security staff to ensure security during the counting process).

#### Other costs:

General costs outside the ones mentioned include Welsh translation of petition documentation, which we estimate will cost £100 if a recall petition is held in one of the Welsh Constituencies.

In addition, we shall be seeking to raise public awareness of this new process by delivering mailings to all registered voters. We estimate that the printing and delivery of leaflets will cost £9,200 (£4,200 for the leaflets and £5,000 for delivery).

#### Total costs:

The estimated total costs of one Recall Petition (in an average sized constituency) will therefore be the summation of the below:

Petition Officer =	£500
Petition Signing Place =	£734
Petition Notice Card Costs =	£20,891
Postal Petition Signature Costs =	£23,051
Counting Costs =	£600
Other Costs =	£9,300

Total Costs = £55,076

**Benefits:**

There are no monetary benefits, however under this option, constituents will be empowered to participate in the political process. This option also fulfils the public commitment given to voters in the Coalition Programme for Government and will restore public confidence in Parliament.

**4. Risks and Assumptions:**

Given the similarities to existing electoral processes, there are already well established procedures to minimise fraud. The threshold of proven serious wrongdoing will prevent recall petitions being triggered for nefarious and vexatious reasons.

We have assumed a 50% turnout of eligible constituents in calculating costs.

We have taken into account that a by-election is possible in the event of serious wrongdoing whether or not a recall package is put in place (for example, through resignation). The key difference is that a recall mechanism will allow constituents a say in whether a by-election should be triggered. The costs presented therefore reflect the cost of administering a recall petition itself, but not the by-election

**5. Wider Impacts:**

This change forms part of a package of constitutional reforms, but this proposal does not have any wider impacts on businesses or the third sector. The Justice Impact Assessment contains a detailed look at the criminal offences associated with the petition phase. Because the recall model proposed mirrors existing electoral practice, broadly the same criminal offences will be applied to the petition phase. Because we do not anticipate that recall petitions will be a common occurrence, the impact on the justice system will be negligible.

**6. Summary and Preferred Option:**

Option 1 is the preferred option as it fulfils the policy objective to give constituents the power to recall their MP and potentially hold them to account for their actions. It also fully satisfies the commitment given by the Government in the Coalition Agreement. Due to the constitutional nature of this Bill, we do not expect there to be any impact on any area with the exception of Justice. The Ministry of Justice has approved a Justice Impact Test and given Offences Gateway Clearance for the Bill.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

**Basis of the review:** [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];

Whilst it is anticipated that this power will be used rarely, a review of the recall petition process will be conducted.

**Review objective:** [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

The purpose of the review will be to examine the operation of the recall petition process in practice.

**Review approach and rationale:** [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

The review will include an assessment of the operation of the triggers and of the conduct of the recall petition.

**Baseline:** [The current (baseline) position against which the change introduced by the legislation can be measured]

This is an entirely new power so there is no baseline against which this can be measured.

**Success criteria:** [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

The review will examine whether the recall mechanism is operating effectively in those cases where either trigger is engaged.

**Monitoring information arrangements:** [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

The recall petition process is expected to be used infrequently so the systematic collection of monitoring information is not applicable.

**Reasons for not planning a review:** [If there is no plan to do a PIR please provide reasons here]

Consistent with its statutory duties under the Equality Act 2010, while formulating the proposals for the creation of a power to recall MPs, the Cabinet Office has considered the likely impact of the proposals with reference to the protected characteristics and with the statutory objectives in mind.

The proposals primarily affect MPs, the constituents of an MP who is subject to a recall petition, political parties with a stake in that constituency and electoral administrators in that constituency. The stages of the recall process have been broken down below and the impacts considered for each stage.

### **Triggering the recall petition**

We do not believe the triggers for recall have an equality impact. The trigger for the recall petition is the MP's own serious wrongdoing. Therefore an MP is not more or less likely to face a recall petition because of any protected characteristic or any factor connected to a protected characteristic.

### **The recall petition process**

As far as possible, the provisions for the conduct of the recall petition process mirror those in place for the conduct of parliamentary elections. It is on this basis which we have considered the impact the proposals will have on any equality issues.

### **Petition Period**

The recall petition will be made available for signature for a period of eight weeks from the date it opens. We do not believe that the length of the signing period will have any adverse equality impact; on the contrary, the availability of the petition for signing in person or by post for such an extended period may make the petition more accessible than an election held over a single day.

### **Entitlement to sign**

Entitlement to sign the recall petition is to be based on entitlement to vote in a UK parliamentary election. Whilst this proposal does not have any direct equality impact, we recognise that there are certain groups who are underrepresented on the electoral register.

### **Method of signing the petition**

All recall petitions will be available for signature by post or in person. Where the elector has appointed a proxy, their proxy will be able to sign on their behalf. It is proposed that the postal

signing method will be based on the existing provision for postal voting at parliamentary elections in Great Britain, with postal voting papers automatically being sent to existing postal voters. Between one and four designated signing locations will be made available in the relevant constituency for those wishing to sign in person. The returning officer, in selecting which locations to designate for signing the petition, will be subject to the equality duties set out in Part 3 of the Equality Act 2010. These include a duty to take reasonable steps to avoid any disadvantage which a physical feature causes to a disabled person. The Bill has undergone pre-legislative scrutiny by the Political and Constitutional Reform Committee who recommended that the Bill should include a specific duty on returning officers to ensure that, as far as is practicable, signing locations are accessible to constituents who are disabled. The Government has included this in the Bill.