



# Equality and Human Rights Impact Assessment (EHRIA)

Remember! When completing the Equality and Human Rights Impact Assessment ‘policy/practice’ must be interpreted in the widest possible sense to include the full range of SPS policies, provisions, criteria, functions, procedures, practices and activities for employment and service delivery. Please refer to the EHRIA Guidance document when completing the EHRIA.

## Stage 1: Background information

Is the policy/practice:	
A new policy/practice	<input type="checkbox"/>
A revised policy/practice	<input checked="" type="checkbox"/>

<p>Are there any other SPS policies that will be altered by the proposed changes?</p> <p><i>Please provide details of the policies and changes required. Any policy subject to change due to the introduction/review of this policy should have an EHRIA review undertaken to ensure there are no detrimental impacts on protected characteristics, human rights or socio-economic impact.</i></p>
Policy Name: NA
Changes identified:

Stage 2: Scoping and evidence gathering

Scoping
<p><b>Why are you introducing the new policy/practice, or why are you revising an existing policy/practice?</b></p> <p>Electronic monitoring was introduced to the Scottish Prison Service in 2006 for the purpose of HDC. It has since been an important reintegration tool which has provided eligible individuals a structured and managed return to their communities following the decision to release them from custody.</p> <p>In 2019, the Management of Offenders (Scotland) Act 2019 was updated, introducing the strengthened power of recall and the creation of the unlawfully at large offence.</p> <p>Following this legislative change, the Electronic Monitoring (Approved Devices) (Scotland) Regulations 2020 was implemented and came into force on 19<sup>th</sup> November 2020. These Regulations prescribe the types of electronic devices which are approved to be used for the purpose of electronic monitoring within Scotland.</p> <p>A number of factors have contributed towards the development of the HDC Review curriculum and supporting framework. These include the move of the Scottish Parliament to change from ‘presumption against release’ to ‘a presumption <b>for</b> release’. <i>The term ‘Presumption for’ release on Home Detention Curfew (HDC) means that there is an underpinning presumption in favour of release on HDC for those who are statutorily eligible, whom have not chosen to remove themselves from the process, and where the outcome of the risk assessment demonstrates that the assessed risk(s) can be safely managed in the community.</i></p> <p>The introduction of a pilot centralised assessment team based at HQ, which would complete the assessment for all STP’s who meet the criteria.</p> <p><b>Global Positioning System (GPS) Electronic Monitoring</b></p> <p>The Scottish Prison Service has been chosen to launch the use of GPS electronic monitoring devices in Scotland.</p> <p>On 22<sup>nd</sup> November 2024, Scottish Ministers laid regulations; The Electronic Monitoring (Approved Devices) (Scotland) Amendment Regulations 2024, which will enable the use of GPS monitoring devices for HDC release from 31 January 2025. These Regulations amend the above 2020 Regulations to include GPS electronic monitoring devices as approved monitoring devices in Scotland for individuals being released from custody on licence.</p>

GPS electronic monitoring devices will enable the Scottish Prison Service to exclude an individual being released on HDC from specific geographical locations. This will be known as implementing exclusion zones which will form part of the individuals licence conditions.

**What is the intended outcome(s) and impact of the new policy/practice, or making the changes to an existing policy/practice?**

To ensure all STP whom met the criteria for HDC are assessed within timescale and to unify, as far as appropriate, the standards that all STPs are assessed for release. Also, to allow the maximum allocated time on HDC. Home Detention Curfew (HDC) introduction of the evolution of the electronic monitoring devices which will enable the Scottish Prison Service to implement exclusion zones for individuals being released on HDC.

## Evidence Gathering

**Who did you consult with?**

Work on the HDC has been overseen through the Scottish Government Task Action Group Steering Group (TAG), SPS HDC Oversight group. including representation from the following:

- Head of Parole, Release and Reintegration Unit (Scottish Government) Chair
- Release Team - Policy Manager (Scottish Government)
- Head of Effective Practice (Risk Management Authority)
- Justice Social Work Policy and Practice Lead (Social Work Scotland)
- Head of Operational Planning (SPS)
- Head of HDC (SPS)
- Prison Practice Theme Lead (SPS)
- Governor Open Estate (SPS)
- Data and Information Analyst (SPS)

In addition, the SPS has engaged with a number of partners to support SG in developing the revised guidance. This has included consulting or hosting remote meetings with the following:

**Criminal Justice Agencies**

- Justice Social Work
- Police Scotland
- Electronic Monitoring Provider (G4S)

**What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you considered when deciding to develop new or revise current policy/practice? How did it shape your policy/practice?**

UK Legislation

- Previous HDC Guidance
- Management of Offenders (Scotland) Act 2019
- Electronic Monitoring (Approved Devices) (Scotland) Regulations 2020
- Electronic Monitoring (Approved Devices) (Scotland) Amendment Regulations 2024
- Prison and Young Offenders Institutions (Scotland) Rules 2011 -
- Section 3AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993)
- The assessment of risk within the HDC process follows agreed practice standards that are outlined within the Framework for Risk Assessment, Management and Evaluation (FRAME) approach utilised within the Scottish justice system.”
- Scottish Prison Service Delivery Plan 2023/28. Objective 3 which focuses on an individual's pathway to release.

Other sources

Formal and informal discussions with a range of subject matter experts and various settings within the criminal justice, health and social care sectors

**What did you learn from your evidence-gathering exercises?**

HDC is an opt-out process that automatically requires a submission from the individual in custody. This ensures it does not discriminate ethnic minorities, or disabilities of communication barriers. Staff are required to provide support to the individual to complete the application which may require translation services. This is addressed at the earliest point in the process.

It is critical that anyone on licence must be able to hear the HDC base unit telephone ringing and also answer the call. Individuals with hearing difficulties or through language difficulties are unable to understand and respond appropriately to a telephone call from the EM service provider whilst on licence may be ineligible for HDC.

Both HDC and GPS equipment look very similar with a slight difference in weight (GPS being the heavier at 125 grammes) and are worn on the ankle or wrist. This could negatively impact if the individual was particularly frail and health professionals deem wearing of the tag is unsuitable.

GPS does require the unit to be charged daily; this requires understanding of ability to follow basic process each day. This might impact some that would find this challenging.

The addition of the GPS technology will allow the introduction of exclusion zones, therefore replacing the current intrusive process of AWAY from box. GPS will therefore provide, at a minimum, an equivalent level victim safety planning with no requirement to impose on the victim's place of residence.

#### How will this shape your policy/practice?

- 1) Staff will be made aware of the technical issues mentioned above and a referred to NHS / MHT should the officer think this is necessary.
- 2) Staff will be made aware of the technical issues mentioned above and a referred to NHS should the officer think the individual's frailty and/or hearing impairments / communication may be an issue.

For either of these issues there may be a refusal to allow HDC on these grounds.

### Stage 3: Identifying impact/outcomes

The Public Sector Equality Duty – will the impact and outcomes of the policy/practice:	
<b>Contribute to eliminating discrimination, harassment and victimisation?</b> Ensure equitable treatment for all individuals in custody that meet the criteria.  The training and information for staff will also support the process by using the knowledge gained to ensure a fair and equitable process. Also supported through audit and assurance process.	<b>POSITIVE:</b> It will contribute to eliminating discrimination, harassment, victimisation <input checked="" type="checkbox"/>
	<b>NO EFFECT:</b> It will have no effect on discrimination, harassment and victimisation <input type="checkbox"/>
	<b>NEGATIVE:</b> It will make discrimination, harassment and victimisation worse <input type="checkbox"/>
<b>Advance equality of opportunity between those who share a protected characteristic and those who do not?</b>	<b>POSITIVE:</b> It will advance equality of opportunity <input type="checkbox"/>
	<b>NO EFFECT:</b>

<p>The training and information for staff will also support the process by using the knowledge gained to ensure a fair and equitable process. Also supported through audit and assurance process. In regard to frailty and being unable to wear the equipment, the significant hearing impairment, and/or inability to respond to the EM service provider those individuals may not be suitable for HDC.</p>	<p>It will have no effect on equality of opportunity <input type="checkbox"/></p>
	<p><b>NEGATIVE:</b> It will reduce equality of opportunity <input checked="" type="checkbox"/></p>
<p><b>Foster good relations between those who share a protected characteristic and those who do not?</b> The fair and equitable and transparency of the process will foster good relationships with staff/third sector/individuals in care. The process is an individual assessment of risk and will not impact of groups.</p>	<p><b>POSITIVE:</b> It will foster good relations <input checked="" type="checkbox"/></p>
	<p><b>NO EFFECT:</b> It will have no effect on good relations <input type="checkbox"/></p>
	<p><b>NEGATIVE:</b> It will cause good relations to deteriorate <input type="checkbox"/></p>

Fairer Scotland Duty 2018 - Socio-Economic considerations
<p>Supporting Reintegration:</p> <p>The Home Detention Curfew (HDC) and the introduction of Global Positioning System (GPS) monitoring support earlier, structured reintegration into communities. This aligns with the Fairer Scotland Duty’s goal of reducing socio-economic disadvantage, as structured reintegration can lead to improved access to stable housing, employment, healthcare, and community support.</p> <p>Reducing Recidivism:</p> <p>By managing risks through electronic monitoring and creating exclusion zones with GPS, individuals are more safely supported in the community. Reducing the likelihood of reoffending can help improve long-term outcomes such as employment prospects and health, both of which were noted in the Duty document as areas where inequalities persist.</p> <p>Centralised Assessment and ‘Presumption for Release’:</p> <p>The move towards a “presumption for release” with structured risk assessment removes potential systemic barriers that may have disproportionately kept individuals from disadvantaged socio-economic backgrounds incarcerated for longer. This change promotes fairness and can contribute to reducing material deprivation and social exclusion.</p> <p>Addressing Urgent and Emerging Circumstances:</p> <p>The updates through the Management of Offenders Act 2019 and 2024 regulations show that strategic decisions are being reviewed and adapted, consistent with the</p>

Duty's requirement that public bodies continue to pay due regard even as circumstances evolve.

It will take steps to reduce socio-economic inequalities. ☐

It will make no impact on reducing socio-economic inequalities. ☒

## Human Rights

### European Convention on Human Rights

Article 2	Right to life (e.g. suicide prevention)
Article 3	Prohibition of torture (e.g. person unable to consent)
Article 4	Prohibition of slavery & forced labour (e.g. safeguarding vulnerable people)
Article 5	Right to liberty & security (e.g. security procedures)
Article 6	Right to a fair trial (e.g. disciplinary procedures)
Article 7	No punishment without law (e.g. disciplinary procedures)
Article 8	Right to respect for private & family life (e.g. access to family)
Article 9	Freedom of thought, conscience & religion (e.g. sacred space)
Article 10	Freedom of expression (e.g. whistleblowing procedures)
Article 11	Freedom of assembly & association (e.g. trade union recognition)
Article 12	Right to marry (e.g. pregnancy)
Article 14	Prohibition of discrimination (e.g. protected characteristic groups)
Protocol 1 Article 1	Protection of property (e.g. staff/prisoner property)
Protocol 1 Article 2	Right to education (e.g. accessible information)

International Covenant on Economic, Social and Cultural Rights. Rights to:  
 Work in just and favourable conditions  
 Social protection  
 An adequate standard of living  
 The highest attainable standards of physical and mental health  
 Education

It will uphold human rights articles. ☒

It will breach human rights articles. ☐



Stage 4: Analysis of impact/outcomes

This new/revised policy/practice will have an impact/outcome on one or more of the 3 main duties of the Public Sector Equality Duty, Socio-Economic considerations as defined within Fairer Scotland Duty 2018 and Human Rights articles for people in custody or staff. Use the sections below to detail the impact, and justify your assessment using the data and evidence you have already gathered (via statistics, consultation, etc.)

<p><b>Positive Impact or Outcome</b></p> <p><i>How does the new/revised policy or practice reduce barriers or issues for people with protected characteristics/Reduce discrimination/harassment or victimisation against any equality group/Have a positive impact on community relations internally and/or externally/Support any equality groups' access to a service or any other aspect of prison life/Reduce any equality group entry or progression as a member of staff, breach human rights articles or Reduce the socio-economic barriers experienced by our staff, those within our care, and those we come into contact with?</i></p>
<p>Protected Characteristics detail the positive impact here:</p> <p>1. The principal purpose behind HDC is to provide those who are eligible, and whose risk is assessed as manageable in the community, with an appropriately managed and monitored return to their communities prior to their sentence expiry. HDC will include electronic monitoring and appropriate licence conditions to safely manage the individual whilst they are released on HDC.</p> <p>11.1 Benefits to the individual:</p> <ul style="list-style-type: none"><li>• Provides an opportunity to resettle in the community and rebuild their life following a period in custody.</li><li>• This can support the development of positive relationships with those important to the person released.</li><li>• Allows parental/caring responsibilities to be maintained.</li><li>• Provides opportunities to engage with public and third sector support services to gain additional support in line with an individual's needs.</li><li>• Provides an opportunity to access educational, employment or volunteering opportunities and build personal capacity upon release.</li><li>• Can provide a level of structure as part of a person's phased return into the community from the highly regulated prison environment.</li><li>• Provides the individual an opportunity to disassociate from criminogenic relationships and peers, using the EM monitoring as the reasoning.</li></ul> <p>Benefits to the wider justice system:</p> <ul style="list-style-type: none"><li>• Supports reintegration of individuals into their communities in a safe and managed manner prior to the end of their prison sentence.</li><li>• Supports the individual to access and engage with public and third sector support services in line with their needs .</li></ul>

- Provides an incentive for compliance with prison rules and the displaying of pro-social behaviour while in custody.
- Ends the disruption to family life experienced during imprisonment.
- Provides an opportunity to test and respond to compliance issues with a form of intervention.
- Supports the safe maintenance of the prison population, allowing for the safe and effective operation of the prison estate.
- A well-managed prison estate, with optimum prisoner and staff ratios, can allow for more beneficial sentence management and rehabilitative work to be undertaken.

**Provides a more cost-effective form of custody and monitoring than prison.**

**Socio-Economic Considerations:**

**Positive Impact on Socio-Economic Considerations**

Enhanced Reintegration and Employment Opportunities allows individuals to reintegrate into society in a structured and supported manner. This transition period can facilitate access to employment, vocational training, or education, which are critical factors in reducing reoffending. By enabling earlier access to the job market, HDC contributes to economic self-sufficiency and reduces reliance on public welfare systems.

Reduction in cost as the cost of electronic monitoring under HDC is substantially lower than the cost of prison. By reducing the prison population through early release, public funds can be reallocated to other essential services.

Support for Family Stability as HDC can help maintain family relationships, particularly where the offender has caregiving responsibilities. This stability is especially important in low-income households, where the absence of a family member due to incarceration can lead to financial hardship and emotional distress.

Community Safety and Confidence HDC is granted following a rigorous risk assessment, ensuring that only suitable individuals are released. The use of monitoring technology provides reassurance to the public and supports compliance with curfew conditions. This balance between rehabilitation and public safety can increase confidence in the justice system.

**Human Rights:**

Right to Family Life (Article 8,) by enabling individuals to return to their families earlier than would otherwise be possible. This is particularly important for maintaining parental relationships, supporting dependents, and reducing the emotional and financial strain on families caused by incarceration.

Right to Liberty and Security (Article 5,)  
HDC offers a proportionate and risk-assessed alternative that allows for a partial restoration of liberty under controlled conditions. This reflects a more balanced approach to justice that upholds individual rights while maintaining public safety.

Equality and Non-Discrimination (Article 14,)  
By offering a consistent and transparent framework for early release, ensuring equitable access to HDC, regardless of race, gender, disability, or income, promotes fairness and reduces systemic inequality.



<div><div>Negative Impact or Outcome</div><div>Please detail any negative impact identified through your evidence gathering and consultation on equality groups or human rights. Please also indicate whether there are negative implications for groups experiencing socio-economic inequalities.</div><div>.</div></div>
<div><div>Protected Characteristics: (Detail the specific impact on each protected characteristic you have identified)</div><div>Individuals experiencing significant frailty, severe hearing impairment, or an inability to effectively engage with the Electronic Monitoring service provider may face barriers to participating in HDC. Such limitations may result in the refusal for HDC where the individual's condition prevents either the safe or effective use of monitoring equipment or undermine the individual's capacity to comply with the technical and communicative requirements of the HDC scheme, potentially rendering them unsuitable for HDC.</div></div>
<div><div>Socio-Economic Considerations:</div><div>Individuals without stable or suitable housing may be deemed ineligible for HDC.</div></div>
<div><div>Human Rights:</div><div><div>Right to Privacy (Article 8, ECHR)</div><div>Individuals subject to constant surveillance, location tracking, and curfew enforcement may feel intrusive, particularly when monitoring extends into the home and affects other household members.</div></div><div><div>Right to Liberty (Article 5, ECHR)</div><div>The curfew and monitoring may limit freedom of movement and autonomy in ways that are disproportionate, especially if not tailored to individual circumstances.</div></div><div><div>Risk of Discrimination (Article 14, ECHR)</div><div>There is a risk that individuals with disabilities, or those with other health conditions could be excluded from HDC due to present technology restrictions. (See above)</div><div>Wearing an electronic tag could have negative social stigma.</div></div></div>

Mitigation

*Any aspect of the policy/practice that has a negative impact must either be mitigated to a reasonable, objectively justifiable level, or abandoned altogether if this is not possible. Please detail the steps taken to mitigate above negative impact*

Frailty, severe hearing impairment, or an inability to effectively engage with the electronic service provider.

Such limitations may result in the refusal for HDC where the individual's condition prevents the safe or effective use of monitoring equipment. Although there are no recorded cases, any assessment with specific reference for the termination due to the impairment or condition will be recorded. To ensure fairness and responsiveness to evolving needs and technologies, these considerations will be subject to annual review and reassessed in light of any advancements in monitoring equipment or support systems that may mitigate these barriers in the future.

#### Monitoring and Evaluation

Regularly review and audit the HDC process to identify disparities or unintended consequences.

Collect and analyse data on outcomes by protected characteristics to ensure equity and inform continuous improvement.

#### Housing Support

The core screen on admission into prison identifies the housing needs for release. And although HDC can also highlight housing issues it does provide another check on housing requirements on liberation thus ensuring no prisoner is liberated to a homeless status.

#### Constant surveillance, limitations on freedom of movement

Prisoners have the option to engage with the assessment of HDC or request not to be considered. Information on HDC conditions are explained prior to release and requires the prisoner to agree. The release on HDC is not compulsory and the prisoner can opt out if they do not wish to be subject to level of surveillance.

## Stage 5: Identifying options and course of action

### Select relevant outcome:

**Outcome 1:** Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified. ☐

Policy/practice addresses the intended outcome and is positive in its language and terminology. It advances equality and human rights as well as fosters good relations.
<b>Outcome 2:</b> Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles. ☒
<b>Outcome 3:</b> Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out). ☐
<b>Outcome 4:</b> Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified. ☐

Summary of outcome decision and any other recommendations

Home Detention Curfew is a supervised early release program that enables eligible prisoners to complete part of their sentence under electronic monitoring at an approved residence. The scheme aims to support reintegration into the community while ensuring public safety through curfew enforcement and surveillance. Participation is voluntary, and individuals may decline if they prefer not to be monitored.

Access to HDC may be influenced by factors such as frailty, significant hearing loss, or difficulties using monitoring equipment. Although no applications have been denied on these grounds to date, any terminations found to have considerations due to these factors will be recorded and reviewed annually to help ensure fairness and account for technological developments. Housing needs are assessed both at the time of prison admission and during HDC consideration to avoid releasing individuals into homelessness.

Following this impact assessment, it has been determined that the HDC policy will remain in place. The review concluded that the policy continues to effectively support safe reintegration, address housing needs, and offer a fair and voluntary process. Ongoing monitoring and yearly reviews will ensure the policy evolves alongside technological progress and the diverse needs of eligible individuals.

Inclusive Communications

*What consideration have you given to the communication needs of those who will be impacted by your policy/practice, and what steps are you taking to ensure your policy/practice will be easily*

*understood by them? For example, accessible formatting of document, alternative formats such as Plain English, Easy Read, foreign language translations, BSL translation, etc. Your local E&D Manager will be able to advise on options available for Easy Read and translations through SPS' procured translation services.*

Efforts will be made to ensure appropriate prisoner notices are provided. The current arrangements for translation services are deemed sufficient, as prison staff have on-demand access to these services.

**Outline plans to action and review the impact of the new/revised policy/practice.**

*Note: any evidence that raises concern would trigger an early review rather than the scheduled date. Indicate if there is any data which needs to be collected as part of action to be taken and how often it will be analysed. Indicate how the person responsible will continue to involve relevant groups and communities in the implementation and monitoring of the new/changed policy/practice.*

<b>What:</b>	HDC notices to be translated to the most common languages.
<b>Why:</b>	To provide another avenue of awareness of services to the prison population.
<b>Who:</b>	Head of HDC
<b>Date:</b>	18.07.25

Please refer to the [Guidance document](#) for details of publication requirements.