



RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Question 2: What response, if any, should there be to an infringement of a buffer zone?

Comments:

There should be a response to all infringements. The social worker should assess the nature and intention of the infringement eg, if the infringement was with the express intention of offending, immediate recall should be considered; but if an infringement is assessed as less serious, as with CPOs and prison licences warnings could be issued. Risk and the response plan for the victim(s) would be key determinants in the assessment for Criminal Justice Social Work. Infringement of the buffer zone is not a breach of an order and guidance should address how such infringements will be dealt with in the context of the support to the client and monitoring of the Order.

Question 3: Do you agree that we should introduce legislation to permit a voluntary GPS scheme?

✓ **Yes** **No**

Question 3a: If you answered yes, who should be eligible, how would this operate and who should manage the scheme?

Comments:

The use of EM on a voluntary basis should be based on Social Work assessment to identify individuals who are at a stage of wanting to change their behaviour in order that EM forms part of a goal orientated plan to support desistance. It should be delivered through a partnership approach including Police Scotland, CJSW and the 3rd sector. Surveillance should be combined with providing support to facilitate desistance and rehabilitation. Demonstration projects in Scotland would help to provide the evidence of its efficacy alongside research and learning from similar schemes in other jurisdictions. However, there would need to be strict controls in place to avoid potential abuse and a mechanism for independent monitoring of any scheme will need to be in place. Voluntary use of EM should therefore be agreed through the Parole Board or a judicial process.

Question 4: Should alcohol monitoring be permitted as part of an electronic monitoring programme?

✓ **Yes** **No**

Question 4a: Please give reasons for your answer

Comments:

This has the potential to support recovery and rehabilitation where there is an assessed link between alcohol use and serious offending and should therefore be explored further in the Scottish context. Non-compliance needs to be assessed in terms of the treatment and support plan in order to inform the appropriate response. There would require to be very strict controls in place and treatment and recovery (the Recovery Agenda) requires to be addressed, with all that is known about addiction and the process of change (e.g. relapse).

Question 4b: If you answered yes to **Question 4** in what circumstances do you think alcohol monitoring would be appropriate?

Comments:

It would be appropriate to use EM in circumstances in which it is assessed that serious offending is linked to alcohol use, where it clearly part of a treatment plan, where the offence warrants restriction of liberty and it promotes the protection of the victim.

Question 5: Should electronic monitoring be an optional requirement of a CPO when it is initially imposed?

✓ **Yes** **No**

Question 5a: Please give reasons for your answer

Comments:

The option for a standalone RLO should remain. However, research shows success is often linked to support and promoting desistance, and combining an EM requirement with other CPO requirements, such as supervision, provides a clear framework that brings them together, promoting partnership working between the EM provider (G4S) and the CJSW case manager with National Outcomes & Standards for Social Work Services in the Criminal Justice System and accompanying CPO guidance.

Question 6: Should electronic monitoring be introduced as an alternative to a fine?

Yes **No** x

Question 6a: Please give reasons for your answer

Comments:

EM involves restriction of liberty and its use should be proportionate to the crime. Therefore, its use as an alternative to a fine should be limited to fine Levels 4 and 5, if used at all. SWS believe that the principle of provision of support, alongside EM, should be adopted and this is inconsistent with its use as an alternative to fines. For some people on low incomes/in poverty, EM may be seen an effective alternative to a monetary penalty, and have a less detrimental impact on other household members. However, there is a risk that a two-tier system is created whereby EM is used disproportionately with people on low incomes. EM would be an additional stigma in these circumstances and may not support desistance in the longer term.

Question 7: Should electronic monitoring be permitted as a condition of a SOPO?

✓ **Yes** **No**

Question 7a: Please give reasons for your answer

Comments:

This would add to the range of options available if it is assessed as appropriate and proportionate. It is likely only to be used where support alongside EM is not required unless a person is also subject to statutory supervision, unless additional resources are made available. The principle of provision of support, alongside EM, should be adopted and additional resources made available to achieve this.

Question 8: Should electronic monitoring be introduced as a possible condition of a RSHO?

✓ **Yes** **No**

Question 8a: Please give reasons for your answer

Comments:

This would add to the range of options available if it is assessed as appropriate and proportionate. It is likely only to be used where support alongside EM is not required unless a person is also subject to statutory supervision, unless additional resources are made available. The principle of provision of support, alongside EM, should be adopted and additional resources made available to achieve this.

Question 9: Should electronic monitoring be introduced as a possible condition of a SDS?

Yes **No**

Question 9a: Please give reasons for your answer

Comments:

It is important to emphasise that EM will not be suitable for every individual and that EM should only be used where it has been assessed as appropriate, and proportionate. A more compelling argument requires to be made for using EM for lower risk offenders (such as those subject to SDS, fines etc.) and less serious offences.

Question 10: Should electronic monitoring be introduced as an alternative to remand?

✓ **Yes** **No**

Question 10a: Please give reasons for your answer

Comments:

Bail supervision is very under-used in Scotland and this is an opportunity to provide a more rigorous option to courts where someone may otherwise be remanded. EM could either be a standalone option but will be more effective when combined with bail supervision to increase the safety and protection of the victim(s) and witnesses. The appropriateness of its use would need to be subject to a Criminal Justice Social Work Assessment and there would be cost implications if there is an increase in bail supervision that would require to be addressed and funded.

Question 10b: If you answered yes to **Question 10**, when would you consider this appropriate?

Comments:

Systemic and practical issues need addressing, including: late notice by COPFS when bail is opposed; lack of prosecution information to assist with assessment; improving joint Police Scotland/CJSW working; installation of kit if the home not owned/rented by the citizen etc. Time to assess and install kit might be an issue at the accused's first appearance and a short RIC might be required for an assessment to be conducted.

Question 11: Should electronic monitoring be permitted as a condition of Police Liberation or Investigative Liberation?

Yes **No** x

Question 11a: Please give reasons for your answer

Comments:

SWS would have significant reservations about its use in these circumstances. The issue of how and who conducts the assessment would have to be considered and a process for determining how a person's movement is going to be restricted, taking account of the circumstances of the victim. This work requires time and professional assessment. If there are serious concerns about risk to a victim, the person charged should be detained to appear at court the next lawful day when these matters can be considered by the court.

Question 11b: If yes, when would you consider this appropriate?

Comments: n/a

Question 12: Should electronic monitoring be permitted as a condition of temporary release from prison?

✓ **Yes** **No**

Question 12a: Please give reasons for your answer

Comments:

This would strengthen the available options for testing higher risk prisoners in the community and protecting communities and victims(s).

Question 12b: If you answered yes, when would you consider this appropriate?

Comments:

It could be used for a range of options eg, work placements; unescorted leave; home leaves. It should be used as a part of a package of support to promote re-integration and reduce the risk of re-offending.

Question 13: Should the data collected only be for the purpose of monitoring compliance with an order or licence condition, or should it also be used for other purposes such as the investigation of crime? Please include reasons for your answer.

Comments:

In principle, data should only be used for the specific purpose for which it was gathered e.g, supporting compliance with an order or prison licence and within the lifetime of that order or licence. It could be used to exclude a person from enquiries into a potential crime.

Question 13a: What appropriate safeguards should be put in place for the collection, use, retention and destruction of data?

Comments:

The data controller needs to be identified and the safeguards should follow that decision eg, a system in place for the length of time information is kept, who has access and when it is destroyed, respect for privacy etc. to prevent abuse.

Question 14: Who should be responsible for the safe return of the monitoring equipment?

Comments:

The EM provider should be responsible for retrieving the equipment. If the provider takes on the contract they also need to take on the risk and make allowance within the bid for that risk.

Question 14a: Should there be sanctions for not doing so?

Yes No

Question 14b: If you answered yes, what do you consider these sanctions should be?

Comments:

n/r

Question 14c: If the sole key holder to a property is not available should a legal right of access be given to Scottish Ministers (and their agents) to enter a property to recover their equipment?

✓ Yes No

Question 14d: If you answered yes, should this access only be via a court warrant?

✓ Yes No

Question 14e: Please include any further comments below

Comments:

If the equipment is the property of the EM provider, then it is right that this can be recovered if the key holder is unwilling to allow access.

Question 15: Please tell us about any potential equality impacts, either positive or negative, that you consider the proposals in this consultation may have.

Comments:

It is important to note that EM will not be suitable for every individual and that EM should only be used where a full assessment has been undertaken by a qualified professional and where it is proportionate to the seriousness of the offence. When EM is used, the principle should be adopted that other supports are put in place to address offending to meet the values set out in the consultation document.

EM should not be seen as a panacea to be used in every instance. Its use must be determined by how it contributes to achieving goals for the individual and for public protection.

Question 16: Please tell us about any potential costs and burdens that you consider may arise as a result of the proposals within this consultation.

Comments:

Costs may be unintended as well as intended. Costs could include additional time on court, police, criminal justice social work and COPFS in assessing, supporting and supervising people. They may include additional time on breaches or court reviews. There may also be demands on the third sector and the EM provider and others in supporting individuals and the provider in managing additional monitoring and providing necessary support. There are also burdens on other people within the household be that family or non-family members. Their views and the potential impact on them should always be an integral part of an assessment.

Question 17: Please tell us about any potential impacts, either positive or negative, that you consider that any proposals in this consultation may have on the environment.

Comments:

All equipment should be as environmentally friendly as possible ie, re-usable and recyclable.