



The Scottish
Government
Riaghaltas na h-Alba

Development of Electronic Monitoring in Scotland

Analysis of Consultation Responses

Crime and Justice



social
research

**DEVELOPMENT OF ELECTRONIC MONITORING IN
SCOTLAND
ANALYSIS OF CONSULTATION RESPONSES**

**Jo Fawcett, Neil Costley and Sue Granville
Why Research**

Scottish Government Social Research
2014

This report is available on the Scottish Government Publications Website
(<http://www.scotland.gov.uk/Publications/Recent>).

The views expressed in this report are those of the researcher and do not necessarily represent those of the Scottish Government or Scottish Ministers.

© Crown copyright 2014

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk

Table of Contents

1	EXECUTIVE SUMMARY	1
	Background	1
	Overview of responses	1
2	INTRODUCTION	4
	Background	4
	Overview of responses	4
	Analysis and reporting	5
3	RADIO FREQUENCY MONITORING	6
4	GPS (SATELLITE TRACKING)	21
5	OTHER ELECTRONIC MONITORING ISSUES	46
	APPENDIX 1: LIST OF ORGANISATIONS	2

ACKNOWLEDGMENTS

Thanks to the organisations who responded to the consultation and to those at the Scottish Government Community Justice Division and Justice Analytical Services Division who provided input and offered advice as required.

1 EXECUTIVE SUMMARY

Background

- 1.1 The consultation paper 'Development of Electronic Monitoring in Scotland: A Consultation on the Future Direction of the Electronic Monitoring Service' was launched in September 2013, seeking views on the operation of the current electronic monitoring service in Scotland as well as options for future development of the service which could include satellite tracking and remote alcohol monitoring.
- 1.2 The consultation response form comprised 21 open questions covering the broad themes of radio frequency monitoring, GPS, and other electronic monitoring issues. The final question asked for any other comments that had not been covered elsewhere.
- 1.3 Forty-eight responses were received from organisations in the public, private and third sectors as well as other independent and professional bodies and academic institutions.

Overview of responses

- 1.4 A majority of the organisations responding to the consultation were broadly supportive of the development of electronic monitoring to be integrated better into the rehabilitative journey. The key themes in responses related to the need for electronic monitoring to be part of a rehabilitative, person-centred 'package' of support, the need for interaction and integration between statutory services and the service provider and the need for effective information sharing between organisations.
- 1.5 Whilst the current system for handling breach of orders was broadly supported by some organisations responding to the consultation, there were more widespread suggestions for improvements. The main suggestions for improvements focused on further improving speed of response, simplification of the system, the need for greater clarity regarding consequences of breach and improved communication and information sharing.
- 1.6 The main barriers to greater use of electronic monitoring related to a perceived lack of understanding and awareness generally, public perceptions of electronic monitoring as a 'soft' punishment, the need for evidence on the effectiveness of electronic monitoring in terms of reducing reoffending and concerns about the appropriateness of offenders' living arrangements when under electronic monitoring. A small number of respondents also cited privacy and human rights issues as an area of potential concern.
- 1.7 Responses to the consultation indicate a degree of positive support, notably from but not limited to CJAs, for the concept of developing the scope of electronic monitoring. Many of the suggested areas for development and improvement reaffirmed the themes identified above.

Integrated services

- 1.8 A large number of respondents commented on the need for integration between different organisations and institutions and for specific services to integrate and interact more effectively. The importance of CJSW's involvement and role in a model of integrated services and information sharing was particularly widely noted.

GPS (satellite tracking)

- 1.9 Only a minority of respondents expressed support for a more widespread roll-out of GPS so that all currently monitored orders had an RF and GPS capability. The main theme in terms of rejecting a wider roll-out was that proportionality and/or targeting would be important.
- 1.10 Although, in general, there was support for the use of GPS technology in the monitoring of sex offenders, a number of respondents commented on the need for proportionality. A small number of respondents explicitly advised against seeking new legislative powers relating to GPS monitoring and sex offenders and there was wider comment that new legislation would be required to ensure appropriate consideration for human rights. There was majority support for new legislation to enforce GPS monitoring as a condition of Sexual Offences Prevention Orders (SOPOs) amongst those respondents who commented specifically on this issue.
- 1.11 In relation to persistent offenders there was relatively widespread comment, once again, that the use of GPS monitoring should be part of a wider package of holistic support and the need to ensure a principle of proportionality was again cited. Views were somewhat mixed as to whether GPS monitoring should be further explored as part of a voluntary pilot of tagging persistent offenders. More respondents who commented on this issue expressed support than expressed opposition to the concept. Greater numbers of respondents expressed support than opposition for legislative backing for GPS monitoring of persistent offenders
- 1.12 With regard to GPS in relation to domestic abuse type offences, almost all respondents who commented envisaged GPS monitoring as potentially a useful tool in at least some domestic abuse circumstances, but most of these were also very wary about its widespread introduction. A range of possible drawbacks was cited as well as the need to integrate the technique with other tools and methodologies for dealing with domestic abuse cases. There was relatively widespread comment that the use of GPS monitoring for domestic abuse required legislative support.
- 1.13 Almost all respondents who commented were positive about the idea of electronic monitoring being used in some form with bail, though all wanted its use restricted to certain scenarios rather than invoked as a blanket tool. A majority of those commenting also felt that new legislative powers would need to be sought in this respect. Comments related to any kind of electronic monitoring rather than solely to GPS monitoring.

Remote Alcohol Monitoring

1.14 There was relatively widespread agreement that there may be a role for remote alcohol monitoring as an additional tool in a broader repertoire of measures to monitor and support offenders and potentially help reduce offending and deliver wider societal benefits. Linked to this, a majority of respondents who commented on this issue agreed that remote alcohol monitoring should be further explored; views were somewhat mixed as to whether this should be on a voluntary or compulsory basis.

Electronic Reminder Service

1.15 There were relatively disparate views as to whether a national criminal justice appointments reminder service should be introduced. The main themes that emerged in comments were consistent regardless of whether respondents agreed or disagreed, and related primarily to the cost effectiveness of a national service and the need for a national service.

2 INTRODUCTION

Background

- 2.1 Electronic monitoring has been in place in Scotland since 2002, following a piloting phase, which began in 1998. It plays a significant part in offender management as a method that is available to courts and prisons in Scotland to allow a sentence or part of a sentence to be served in the community.
- 2.2 In April 2013, a new electronic monitoring service provider was contracted in Scotland and there is a capability to provide a satellite tracking service in the new contract. There has been little work undertaken by way of a formal review of electronic monitoring since its introduction more than a decade ago, and the new contractual arrangement presented a timely opportunity to review electronic monitoring and to examine options for the future development of the service.
- 2.3 In September 2013, the consultation paper 'Development of Electronic Monitoring in Scotland: A Consultation on the Future Direction of the Electronic Monitoring Service' was launched. The consultation looked at possible options for future development of the electronic monitoring service made available by the advances in technology, such as: satellite monitoring technology and remote alcohol monitoring technology.

Overview of responses

- 2.4 The consultation closed on 31 December 2013 and 48 electronic responses were submitted from a range of organisations. As part of the analysis process, responses were assigned to groups. This enabled analysis of whether differences, or commonalities, appeared across the various different types of organisations that responded.
- 2.5 The following table shows the numbers of responses in each group.

Table 1.1 Consultation responses

Respondent group	Number
Local government	11
Partnerships eg Alcohol and Drug, Criminal Justice, Health and Care	7
Community Justice Authorities	3
Health Boards	2
Other Public Sector	4
(Total Public Sector)	(27)
Private Sector	3
Third Sector	9
Academics	2
Other Independent and Professional Bodies	7
Total	48

- 2.6 A full list of all those organisations who submitted a response to the consultation, listed by respondent group, is included in Appendix 1.

Analysis and reporting

- 2.7 Comments given at each open question were examined and main themes, similar issues raised or comments made in a number of responses, were identified. In addition, we looked for sub-themes such as reasons for opinions, specific examples or explanations, alternative suggestions or other related comments.
- 2.8 Where respondents did not use the questionnaire format for their response but provided comments pertinent to specific questions these have been included in the thematic analysis at the relevant questions.
- 2.9 The main themes were looked at in relation to respondent groups to ascertain whether any particular theme was specific to one particular group, or whether it appeared in responses across groups. When looking at group differences however, it must be also borne in mind that where a specific opinion has been identified in relation to a particular group or groups, this does not indicate that other groups do not share this opinion, but rather that they have simply not commented on that particular point.
- 2.10 Where a theme is described without being associated with a particular group, it can be assumed that this type of comment was found in responses from a range of different groups.
- 2.11 While the consultation gave all those who wished to comment an opportunity to do so, given the self-selecting nature of this type of exercise, any views reported here cannot be extrapolated to a wider population outwith the respondent sample.
- 2.12 The following chapters document the substance of the analysis and present the main views expressed in responses. These chapters follow the ordering of the sections in the consultation document.
- 2.13 Appropriate verbatim comments, from those who gave permission for their responses to be made public, are used throughout the report to illustrate themes or to provide extra detail for some specific points.

3 RADIO FREQUENCY MONITORING

- 3.1 The consultation paper provided background information on the technology that is available and how it is used, and then explained the current legal basis for monitoring in Scotland. Information was also provided on the costs of monitoring, together with statistics on the numbers of orders and their completion rates over the last four years.
- 3.2 The paper went on to outline potential areas of development of the current service and seek views on ways in which electronic monitoring might be better integrated with other measures to aid reintegration and rehabilitation of offenders. It also stressed that respondents should not limit their comments to the areas outlined but also consider any other ways in which the existing electronic monitoring service can be developed and improved.

Integrating electronic monitoring with other services

- 3.3 The first question in the consultation asked: 'How can electronic monitoring be better integrated with other services, including statutory and third sector, in order to support a holistic approach to addressing offenders' needs?'
- 3.4 Forty-two responses were received to this question, including those addressed through free-flowing consultation responses. In general, the majority of those responding were broadly supportive of the development of electronic monitoring to be integrated better into the rehabilitative journey.
- 3.5 Only one respondent, a local authority, sought to register aversion to the extensive use of electronic monitoring stating that the value of extending its use to support a holistic approach to addressing offenders' needs is currently unsubstantiated. Their argument was that those who engage in offending behaviour require opportunities to address the root causes of offending to transform behaviour in the long-term. The local authority commented that:
- “While there may be some evidence to support compulsory attendance to address criminogenic factors, it is doubtful that electronic monitoring would enhance any learning opportunities and may in fact prove to be counterproductive, certainly for those whose behaviour may be less of a risk to the public.”
- 3.6 The remainder of responses were more positive at a conceptual level and the comments received to Question 1 predominantly fell into three core categories:
- The need for electronic monitoring to be part of a rehabilitative, person-centred 'package' of support;
 - The need for interaction and integration between statutory services and the service provider;
 - The need for effective information sharing.
- 3.7 A series of additional comments were also received which do not fall within the three core areas.

Electronic monitoring as a package of support

3.8 One of the key predetermining comments was an acknowledgement that electronic monitoring should not exist as a stand-alone punishment but rather as part of a rehabilitative package of support. Eleven separate respondents – comprising four local authorities, four other independent and professional bodies, two partnerships and one third sector organisation – commented from the perspective that electronic monitoring is a punitive measure rather than rehabilitative. The importance of judicial sentencing in discouraging reoffending means that punitive sentencing alone is insufficient. As one respondent commented:

“There is nothing intrinsic to [electronic monitoring] that tries to affect a person’s behaviour in the longer term, beyond the duration of the order.”

(other independent and professional body)

3.9 It was this perspective that formed the basis of one of the key themes in responses to this question, which was respondents’ support for electronic monitoring to be integrated into a holistic, person-centred package of support. Another eleven responses specifically stipulated their support for this approach, made up of three CJAs, two local authorities, two partnerships, two other public sector bodies and two other independent and professional services bodies. One local authority commented that their support for the principle was strong and that to ensure successful implementation there is a need for a best practice framework.

3.10 Two local authorities and a partnership outlined that these outcomes should be based on a principle of proportionality, whereby the use of electronic monitoring should be proportionate to the assessed risks. As one local authority stated:

“The principle of proportionality requires to be enshrined within the assessment and a more dynamic and flexible approach to periods and types of restriction taken with reference to pattern, nature, seriousness and likelihood of further offending.”

3.11 Thinking about the establishment of a framework for development, five respondents – three community justice authorities (CJAs), a partnership and a third sector organisation – suggest that the Reducing Reoffending Change Fund and Mentoring Public Social Partnerships (PSPs) provide an ideal framework for a holistic person-centred rehabilitative package to complete the requisite monitoring, management and support.

The need for integration of services

3.12 The establishment of a support framework in the vein of the PSPs mentioned above was acknowledged to require a degree of integration between various organisations and institutions and formed the basis for one of the key response themes to Question 1. A large number of respondents commented on the need for specific services to integrate and interact more effectively; whilst Criminal

Justice Social Work (CJSW) was frequently mentioned, one respondent commented on the need for CJSW to form the central component of a review.

- 3.13 The most commonly noted interactions required were between CJSW and the electronic monitoring service provider – currently G4S. One local authority commented on the fact that electronic monitoring appears to largely exist separately from Criminal Justice Social Work. They acknowledged that there are contacts between supervising officers and G4S staff and that G4S are invited to planning meetings for high risk offenders; however, the perception was that there is little evident discussion in terms of how each can support one another. Their suggestion was that the service provider could nominate an individual staff member as a contact person for each local authority area, and perhaps have regular times when the staff member is in the area to come to CJSW offices and share relevant information on service users.
- 3.14 Another local authority commented on the fact that there is no apparent interaction from local authorities with offenders who are on Restriction of Liberty Orders (RLOs), highlighting the need for additional support. They also suggested that even when the monitoring is imposed as a sanction for breaching a Community Payback Order (CPO), the interaction between the local authority supervising the offender and the service provider is limited.
- 3.15 With respect to CPOs, a small number of respondents commented on the changes between the pre-existing probation orders to CPOs¹, which do not include electronic monitoring as a mandatory requirement. A private sector respondent also argued that this lack of CPO legislation with an electronic monitoring component is a barrier to full partnership working, stating that:
- “The current lack of legislation for monitoring to be imposed as a condition of a community payback order clearly reduces the potential for partnership working and to embrace the principle of a more holistic approach towards addressing offenders’ risk and needs. It follows that we support the principle of statutory or voluntary service providers providing resources to increase the level of support to some persons during their curfew and to address wider criminogenic and social needs.”
- 3.16 Thinking about the integration of services, one local authority commented that electronic monitoring needs to be incorporated within the overall Case Management Plan. They argued that it also requires joined up case management, following the model of unpaid work and supervision as part of a CPO. Their view was that this could involve active participation in the case management process by monitoring services, including attendance at reviews, as opposed to minimal contact primarily centred on breach processes, which appeared to be the case currently.

¹ Community Payback Orders came into force on 1 February 2011, replacing probation orders, community service orders and supervised attendance orders. Probation orders could be imposed with an element of electronic monitoring to support social work supervision, this element is no longer available with supervision requirement within a CPO.

3.17 Nine respondents specified the need to include the third sector in the integration of support services available to offenders. Furthermore, some felt that there would be a need to clarify specific roles. A local authority and third sector organisation highlighted the importance of the third sector in the light of evidence that suggests that depression, other mental health issues and feelings of isolation are common for offenders.

3.18 On the other hand, two third sector respondents and a local authority commented that electronic monitoring can cause pressures on households. Examples were given whereby children could be at risk in the event of offending parents being reintegrated to the household. As one local authority stated:

“...chaotic offenders are the most likely to have significant issues with (stable) accommodation, family relationships and compliance (attending appointments). Thus some form additional support via third sector mentoring arrangements would be critical to making this a success.”

3.19 A third sector organisation added that research confirms that effective solutions for stimulating positive change in offenders are commonly focused around interventions that:

- Are cognitive-behavioural in nature;
- Help increase an individual’s understanding of the impact of their offending on others;
- Help build social and personal capital;
- Promote desistance.

3.20 A partnership and two third sector organisations highlighted a potential strength in integrating support services and electronic monitoring as part of home detention curfews (HDC), again stressing the need for additional support for families.

3.21 One partnership added that they believe improved integration to throughcare and community based disposals would enhance the impact in reducing re-offending.

The need for effective information sharing

3.22 The third key theme emerging from responses to Question 1 was the need to ensure effective information sharing between the integrated organisations. Most significantly, as highlighted by twelve responses, was the need for effective information sharing between CJSW and the service provider (G4S).

3.23 A local authority commented that regular and reliable information sharing between criminal justice services, service provider and the courts was required. This would include for example, daily compliance reports from the service provider, confirmation of warnings or breach from CJSW and consideration of general progress by Sheriffs. The perception was that the inclusion of detailed research and guidance on partnership working in a best practice framework, as

mentioned at 3.9, may also help to overcome any legal and ethical issues concerning its usage.

- 3.24 Another local authority commented that they felt that the current system does not lend itself to integrated working between agencies providing treatment and those providing supervision. They felt that the provision of update reports from those responsible for monitoring the offender to parties responsible for providing treatment as well as supervision, might go some way to improving integration.
- 3.25 Three respondents – two partnerships and a local authority – commented on the need for this information sharing to extend to third sector organisations providing support. One response mentioned that there may be a requirement to seek the offender’s consent in sharing this information.

Additional Comments

- 3.26 A number of additional comments were received relating to Question 1 of the consultation, which do not fall within the three key themes highlighted above. Four respondents commented on the need in relevant cases to align with continuous alcohol monitoring through use of, for example, transdermal alcohol testing. One private sector respondent commented on the strength of their Alcohol Monitoring Systems (AMS) in the USA and the development of Secure Continuous Remote Alcohol Monitoring (SCRAM) to hold offenders accountable to sobriety requirements. They stated that research shows that utilising evidence-based treatment plans that include random drug and continuous alcohol monitoring can have positive impacts on recidivism rates.
- 3.27 Two respondents commented on support for electronic monitoring to certain people groups – young people and women – as an alternative to remand (ATR). In the case of the former, an academic institution argued that this should only be used when young people represent a risk to themselves and as part of ATR only for pre-trial. In the case of the latter, a third sector organisation cited the fact that 70% of women on trial do not go on to serve custodial sentences as justification for this.
- 3.28 A professional body commented on welcoming electronic tagging in principle but stated a need to consider an offender’s right to privacy.
- 3.29 Finally, a third sector organisation commented that the consultation requires more focus on public protection and that many practises generally need to be improved. The respondent cited adequate risk assessment of the offender; inclusive and meaningful participation of, and consultation with, victims; consideration of the nature of conditions imposed on the offender as part of the electronic monitoring release; management of the offender, and appropriate and timely responses to breaches of conditions and further offending by the service provider, prisons, courts and police.

The current handling of breach of orders and suggestions for improvement or developments in this system

3.30 Question 2 asked: 'Please give your views on how breach of orders is handled under the current system and what, if any, suggestions you have for improvement or development of the current system of breach? '

3.31 Thirty-seven respondents provided comments. Five responses stated their broad support for the process currently in place. One respondent, a third sector organisation, commented on their support for the simplicity of the current system whereby RLOs are dealt with by the courts and HDCs are dealt with by the Scottish Prison Service (SPS). A number of respondents commented on the clarity and speed of HDC reporting specifically. One local authority noted that although the process generally is good and speedy from CJSW, they felt that there was a degree of inefficiency from the courts.

Speed of processing

3.32 In terms of improving or developing the current system of breach, a wide variety of comments was received. Whilst there was some praise for speed as mentioned above, six responses specifically mentioned requirements for improvement.

3.33 Some commented that it was the lag between breach and a court appearance where court orders apply. A local authority commented on frustration with this time delay, adding that the lag may also leave the community and victims vulnerable. Their suggestion was that it might be pertinent to alter the system to include breach timelines targets to reflect that more serious breaches, such as entering an exclusion zone, require action within a specified period. They felt that lesser breaches such as accumulation of time violations may have a longer time period so that the impact on courts is lessened.

3.34 Four responses – one from a partnership and three from CJAs – specifically argued in favour of a more streamlined approach to court imposed orders, whilst a public sector organisation argued the need for a more streamlined Parole Board decision-making process. Another public sector organisation noted that there was a need to ensure that breaches of orders should be reported immediately to the Parole Board or the courts.

3.35 Whilst there was a range of other responses received in terms of improvements to the service, these fell under three main areas relating to the perceived complexity of the current system, the need for clearer consequences and better communication.

Complexity of the three level approach

3.36 One of the most significant themes emerging was the perception of the current system as one that is complex. Thirteen individual responses commented on this issue in some way. For some, the three level approach, although this was understood not to be the case, is seen as implicit of one which indicates seriousness and it was felt this will not be easily understood by the public and / or offenders.

3.37 Whilst there was an understanding from many of the need to take into account different circumstances, for those who felt the system was complex and / or unclear, there was a suggested need to clarify the relationship between breach 'levels' and the outcomes of breach. As one partnership wrote:

“The current arrangements, with three categories of non-compliance which are not reflected in seriousness of circumstances surrounding alleged breach are not helpful in ensuring clear understanding and transparency. It may therefore be helpful to consider one list of matters that could constitute breach, within existing arrangements for courts to consider their response to breach reports.”

3.38 It is important to note that some responses recognised the need for flexibility in breach protocols, but that this was commonly referred to in more simple terms. For example one public sector organisation made reference to voluntary breach, which they felt should be treated more strongly, and involuntary, such as public transport failures or issues outside of the control of the individual, which should be treated more leniently. Involuntary breaches were mentioned by a third sector respondent as particularly likely amongst young people, due to less life experience.

Consequences of breach

3.39 As alluded to in the earlier quotation, there was a suggestion from some respondents of the need to outline more clearly the consequences of breach. A local authority and a partnership both suggested the production of a tariff system, which clearly outlines the possible types – or levels – of breach and what the consequences of each would be. Another local authority suggested that such guidelines should be published for wider availability and to aid consistency.

3.40 For some a consistent approach to punitive action would reduce the aforementioned complexity of the system and should act as a deterrent to breach. Three respondents argued that at the time of initial sentencing it should be made clear to offenders what the consequences of breach will be.

3.41 In the light of the complexity of the system and the need for efficiency in the process, a partnership suggested that there was a need for a clear and consistent process for prioritising breaches, most likely on the basis of their severity.

Communication

3.42 Communication processes were highlighted as an area for potential improvement and aligned with the issues of inter-agency integration and information sharing as outlined in responses to Question 1. A number of respondents highlighted again the importance of effective and efficient information share between social workers and the service provider (G4S); in certain circumstances this should be shared with third sector organisations involved in the rehabilitation process, e.g. for young people.

- 3.43 Respondents suggested that effective information share and communication between agencies would allow social workers and others to assess the circumstances of breach (as mentioned) efficiently and clearly. Some responses mentioned the need for immediacy in reporting of a breach and a local authority specified the need for the CJSW to be informed immediately when an order is breached where a CPO is running concurrently with a RLO.
- 3.44 A small number of responses commented on the challenge that there is no communication with CJSW in the case of HDCs. They felt that for those not under statutory supervision to CJSW, liaison should exist between SPS, G4S and CJSW. Their view was that post custodial voluntary support will likely be in place and improved contact between agencies may assist in improving compliance.

The role of social workers

- 3.45 A number of responses commented on the need to provide clarity on the specific roles of each agency in the case of different levels of breach. As such, there was a view that social workers could and should play an increased role of influence in the process of dealing with breach. A partnership specifically outlined how social workers' influence could be developed, stating improvements in terms of:
- Listening and taking greater account of social work opinion and assessment regarding an individual's suitability;
 - Taking greater account of social work recommendations for action;
 - Improved tie up between SPS and social work in relation to decision-making.
- 3.46 In relevant circumstances, the role of third sector organisations was also seen as a potential area of development.

Risk Assessments

- 3.47 A small number of respondents also highlighted the importance of effective risk assessments in the development of breach – this was most notably relative to avoiding breach in the first place but also referenced ensuring against further breach. For some there was a need for effective information sharing on an offender's previous performance with electronic monitoring to assess the risk of breach. Again this was seen as particularly important in the case of HDC where there is no liaison with CJSW.
- 3.48 Others argued that in the case of RLO, there was a need for a much better initial assessment of risk to avoid breach. A further suggestion was that risk assessments of future breach should allow for higher risk individuals to be fast tracked.

Barriers to greater use of electronic monitoring under the current system

- 3.49 Question 3 asked: 'Do you know of any barriers to greater use of electronic monitoring under the current system? What could be done to address those?'

3.50 A total of 37 consultation responses directly addressed this question. The main themes emerging from the responses were:

- Lack of understanding and awareness generally;
- Public perceptions of electronic monitoring as a 'soft' punishment;
- The need for evidence on the effectiveness of electronic monitoring in terms of reducing reoffending and some form of surrounding PR work;
- Concerns about the appropriateness of offenders' living arrangements when under electronic monitoring;
- Privacy and human rights.

Lack of awareness and understanding

3.51 A number of responses to the question suggested that there was a general lack of understanding and / or awareness of electronic monitoring as an effective punitive measure. This applied to both professionals including Sheriffs and the general public. Comments relating to the need to increase awareness and understanding are discussed further in this chapter.

3.52 Aligned with the previous questions, seven respondents felt that greater communication and integration between services, especially the CJSW and service provider (G4S) would assist in sharing information, improving outcomes and raising awareness and understanding. One local authority commented on the need for local authorities generally to play a significant role in this information exchange and joined up working approach. Two partnerships commented on the need to administer a pilot within individual community justice authority areas (CJAs). As one response stated:

“Considering the first question in the consultation focused on EM and integration of services to meet the needs of the offender, it may be logical to pilot some work involving EM and integration within certain CJA areas”.

(partnership)

3.53 A local authority stated that any extension of electronic monitoring must be targeted appropriately without “net widening”, up- tariffing or degradation of risk management of offenders”. This will require further training for sentencers, Parole Boards, CJSW and other criminal justice professionals. Used appropriately and proportionally, they felt it has the capacity to reduce the prison population, lessen the impact on offenders and increase the potential for rehabilitation.

3.54 One public sector organisation suggested that the development of the service would require the establishment of a local governance group involving the police, social workers, Scottish Court Service, Crown Office and SPS.

Public perceptions on electronic monitoring

3.55 Another key potential barrier to use of electronic monitoring that was highlighted in seven consultation responses, was the public perception of it as

a 'soft' or lenient measure on offenders. These respondents generally felt that there was a need for publicly published evidence and information on what the merits of electronic monitoring are, particularly in the context of community safety and repeat offending.

The need for evidence

3.56 This points above lead to the most commonly raised issue in this question of the consultation. Ten responses to the consultation highlighted a lack of published evidence as a likely barrier to more widespread use of electronic monitoring. This argument was represented by three local authorities, two public sector bodies, two other independent and professional bodies, one CJA, a partnership and a third sector organisation. There was a concern that not enough research has been conducted or published to demonstrate how effective electronic monitoring is in reducing criminality generally and especially reoffending. As one local authority wrote:

“We believe the case still has to be made to demonstrate what additional EM can bring to achieving the goals of reparation, rehabilitation and integration within the context of community social work Court disposals”.

3.57 For three other respondents – two partnerships and a third sector organisation – there was a suggestion that at present there is no evidence of the long term effectiveness of electronic monitoring. One commented on the prevalence of concerns amongst CJSW regarding the restrictive and punitive aspects of electronic monitoring, coupled with their doubts over its effectiveness in the long term. Another independent and professional body stated that there is an ongoing need for promotion of the use of electronic monitoring specifically with authors of CJSW reports.

3.58 A third sector organisation argued that the major flaw in electronic monitoring is that there is no evidence that it addresses the criminogenic needs of the offender.

3.59 Aligned with this lack of evidence, some argued that the knock-on effects are that there is a general lack of judicial confidence in certain authorities, whilst others added that use of electronic monitoring is at the discretion of Sheriffs who may or may not support their use and there is little consistency across CJAs. Whilst some argued the case for a pilot, others argued that if there is a geographical bias, there should be a degree of information share to allow one jurisdiction to learn from another.

Concerns over living conditions

3.60 Seven consultation responses highlighted the importance of considering the offender's living conditions in the case of electronic monitoring. In these instances there were concerns raised about the suitability of certain cases in reintegrating with their families or in becoming isolated, again dependent on the individual themselves.

- 3.61 A local authority suggested that the resilience of families to cope with offenders who might be placed on electronic monitoring and the “chaotic nature of some offenders’ lives” can all act as barriers to its success.
- 3.62 Two possible solutions were suggested to counteract the issue. A local authority suggested that the third sector could play a role in the rehabilitation and reintegration process, particularly organisations funded through the Reducing Reoffending Change Fund. A third sector organisation argued that a system that was centred on an individual’s whereabouts, rather than proximity to a radio transmitter would be more appropriate – possibly strengthening the argument for GPS, which was supported as a solution for one CJA.

Privacy and Human Rights

- 3.63 A small number of respondents, two other independent and professional bodies and another public sector organisation commented on a likely aversion from some groups to electronic monitoring on the basis of human rights and privacy. The public sector organisation stated that Article 8 of the Human Rights Act 1988 is a barrier to greater use of electronic monitoring, however this must be balanced with the level of offending, threat, risk and harm posed.

Electronic monitoring and CPOs

- 3.64 A small number of respondents drew attention to the fact that electronic monitoring cannot be a condition of CPOs at the start of the order and this was having an effect on use of RLOs more generally. An academic institution commented that this was an anomaly in relation to electronic monitoring particularly as it can be imposed as a sanction for a breach of a CPO. They felt that given the use through the Children’s Hearing System (CHS) of Movement Restriction Conditions (MRCs), combined with intensive support packages, the availability of electronic monitoring as an additional condition of a CPO could potentially fulfil a similar purpose. The perceived advantage of such a disposal would be to guarantee that electronic monitoring is delivered in tandem with social work support given that a CPO can only be issued to a young person under the age of eighteen when accompanied by an Offender Supervision Requirement condition.

Additional Comments

- 3.65 A small number of additional potential barriers were mentioned including:
- Delays in getting orders through the court / speed of processing generally;
 - Resource limitations and social worker time;
 - Frustration with inflexibility to the process;
 - Uncertainty with how best to use electronic monitoring;
 - Saturation of technology in modern life.

Improvements and areas for development

- 3.66 Question 4 asked: ‘Considering all aspects of how electronic monitoring currently operates, what improvements and areas for development could you suggest for the operation of the current electronic monitoring service in Scotland?’
- 3.67 Thirty-six responses directly addressed this question. There was a degree of support for the concept of developing the scope of electronic monitoring and many of the suggested areas for development and improvement aligned with the preceding three questions. Three responding CJAs explicitly stated that there was a need and desire to see use of electronic monitoring widen in Scotland.
- 3.68 As a slightly cautionary note, a local authority stated that if electronic monitoring is to be developed further, consideration should be given to increasingly individualised and tailored approaches to its use. Their argument was that this would allow a greater degree of flexibility to monitor, restrict or contain individuals without the need for expensive and arguably damaging periods of incarceration. GPS exclusion zones and amended curfew times were mentioned as potential avenues for consideration – each of which is dealt with later in this section.

Electronic monitoring with CPOs

- 3.69 As mentioned in the responses to Question 3, there was a degree of confusion from a number of responses in terms of why electronic monitoring could not be added as a stipulation to CPOs. This was of particular relevance when considering high risk offenders. Indeed, this issue was raised again at Question 4 by six individual respondents – three local authorities, a private sector organisation, a partnership and an independent and professional body. There was concern with respect to the fact that it is not currently possible under the Criminal Justice and Licensing Act 2010 to impose a RLO condition as part of a CPO (although it was recognised that such an order can be imposed following breach of a CPO and an RLO can be imposed alongside a CPO).
- 3.70 One response drew reference to a report from Strathclyde University on the basis of interviews with Sheriffs evaluating CPOs. The results from the research suggested that Sheriffs find it helpful to use electronic monitoring to restrict offenders (particularly young males) to their homes during the evenings, as a means of keeping them away from situations where their offending typically occurs. The restriction can then be varied in progress reviews if the offender is making progress and complying with the order. As such, respondents argued that there might be some advantage to enabling electronic monitoring to be used as part of a conduct requirement of a CPO.
- 3.71 As one local authority stated: “It is not clear why electronic monitoring is not available as a requirement of a Community Payback Order, where a supervision requirement could be imposed alongside. It might be helpful to develop best practice guidance which illustrates where electronic monitoring is more likely to be effective”.

Information exchange and agency integration

- 3.72 As in the previous questions, a number of respondents commented on the need for better inter-agency working and information sharing. In general, this referred to the information exchange and joined up working between service provider (G4S) and local authorities / criminal justice staff. A partnership respondent suggested that more effective communication between social work and the service provider might support the CJSW role which could potentially include social work being able to vary orders without having to go through the court system, which is currently very time and work intensive.
- 3.73 One respondent, an academic institution commented that there is a need to ensure that opportunities for relationship building between private sector technology providers and social workers are maximised to ensure the best possible service to young people and to increase the prospect of their successful completion of orders imposed.
- 3.74 A local authority suggested that although RLOs are managed by the service provider, the service provider could keep the local CJSW service fully informed on all relevant individuals to permit full and accurate record keeping within social work information systems.
- 3.75 Two responses, both from other independent and professional bodies, argued that there was a case to be made for the removal of private enterprise from the process and that the management of electronic monitoring should be brought in house to aid information sharing and long-term economic savings.
- 3.76 Two responses specifically commented on the need for greater education of Sheriffs on the benefits and uses of electronic monitoring and suggested that the service provider could supply up to date information on the subject to them.

Use of GPS

- 3.77 The use of GPS is discussed in much greater detail later in this report, however there were a significant number of responses which addressed the issue to some extent at Question 4. Eight respondents commented on the need for, or a desire to see use of GPS rather than the traditional radio frequency (RF) transmitters, including three CJAs, two partnerships, two other public sector organisations and a local authority. The reasons given at this stage were as follows.
- 3.78 The CJAs argued that the use of licence conditions for attendance at interventions as part of HDC, or any court order using electronic monitoring, could be increased and enforced through GPS, thus structuring the offenders day, as they are still serving part of or all of their sentence, albeit in the community.
- 3.79 The two partnerships and a local authority added that there was a benefit to GPS in the development of exclusion zones, suggesting that GPS has the potential to identify where someone at risk may be moving towards the locus of an offender and could allow for quicker and more effective intervention.

3.80 A public sector organisation added that although there was a need to see improvements to GPS signalling, its use in electronic monitoring provides an opportunity to inform crime investigations, by enabling real time information of the offenders' location; this could potentially reduce the impact on police time and resources.

Types of Offender

3.81 A small number of responses commented on the types of offender who could be considered for electronic monitoring. One local authority commented on the need to use it more frequently with offenders serving shorter custodial sentences and more with young offenders.

3.82 Two local authorities and a partnership argued that the use of electronic monitoring could in fact be more targeted and specifically to high risk offenders. One of the local authorities suggested that electronic monitoring should be reserved for serious, violent offenders and sex offenders where the level of the risk assessment and behaviour merits restriction on movement over and above other sanctions / interventions.

3.83 A local authority suggested that domestic abuse cases could be given priority with electronic monitoring arguing that in these instances, consideration should always be given for a tag / RLO to be imposed as a condition of supervision, except where the perpetrator and victim continue to reside together.

Curfew Hours

3.84 Three responses highlighted potential changes to curfew hours in electronic monitoring cases.

3.85 One local authority felt that under a GPS based system, time zones could apply for specific offender types, for example school run times for sex offenders.

3.86 An independent and professional body called for flexibility in curfew hours to ensure the best practice in family reintegration.

3.87 Another local authority argued that the current curfew restrictions applied to electronic monitoring are sufficient but any variation in the use of the hours may be better linked to the role of statutory authorities, rather than the courts.

Incentivising compliance

3.88 Three respondents argued the case for reducing the restrictions imposed on offenders in the case of continued compliance. Two commented on the fact that courts can exercise their right to review any order with electronic monitoring and welcomed this, but questioned how frequently this was done.

3.89 One respondent, a local authority suggested that incentivisation could not be seen as an option for electronic monitoring within HDC licence as the incentive has already been achieved with the early release.

Family support and package of rehabilitation

- 3.90 As noted in comments at Question 1 particularly, there were references to electronic monitoring being seen as a package of rehabilitation and not a stand-alone measure. Specifically there was a call for young person and family support to be made available when relevant.
- 3.91 A local authority suggested that the importance of family support in an offender's rehabilitation cannot be underestimated. Their view was that electronic monitoring can be a barrier to family support if the offender does not stay in the family home due to the curfew element. Further, they said that families may feel under additional pressure to 'police' the offender's compliance. As such there is a perceived need for some requirement of flexibility to allow time for positive interaction between family members and the offender.
- 3.92 Three CJAs argued that there should be a Family Impact Assessment carried out when a HDC is granted as this is more focussed and specific than a standard community assessment report.

4 GPS (SATELLITE TRACKING)

- 4.1 The consultation paper explained how GPS technology works and went on to discuss its relative strengths and weaknesses. The paper identified the need to examine its possible uses and consider suggestions about what a GPS service might look like and what it may seek to do, taking into account factors such as, passive or active monitoring, legal considerations and some examples of possible uses.
- 4.2 The questions in this section look first at GPS to monitor sex offenders, then GPS in relation to monitoring of persistent offenders, followed by GPS relating to domestic abuse type offences and finally GPS in connection with bail. The section concludes with questions regarding a more widespread roll-out of GPS so that all currently monitored orders had an RF and GPS capability.
- 4.3 An important theme in comments at this section related to the need for more piloting and research work to get evidence about the effectiveness of GPS monitoring.

Sex Offenders

- 4.4 Question 5 asked: 'What, if any, role do you believe GPS monitoring should have for use with a sex offender cohort? Why?' Forty-one respondents commented.
- 4.5 In general, there was a degree of support for the use of GPS technology in the monitoring of sex offenders. The suggestion was that GPS monitoring might be helpful to monitor the general movements of the offender out-with curfew hours, thus providing some additional protection to the public.
- 4.6 Of the forty-one responses received at this question, eleven specifically commented on the risk of signal 'drift' as an issue for consideration. This was however, usually seen as a cautionary note and not necessarily a reason for exclusion of consideration of its use. One respondent, a local authority suggested that signal drift should not be considered a challenge to the use of GPS as it will become part of the knowledge and skills set for those supervising and monitoring those with a GPS monitor.

Perceived advantages of GPS monitoring

- 4.7 There were three main themes highlighted in the responses that marked advantages of using the technology. These were the ability to protect the public from sex offenders through creation of exclusion zones, improving public confidence and the use of GPS monitoring as an additional tool to Multi Agency Public Protection Arrangements (MAPPA).
- 4.8 In addition to these, some respondents noted the ability afforded through use of GPS to build up an accurate picture of an offender's lifestyle, movements and routines – a local authority commented on the importance of this in light of the fact that many sex offenders spend considerable time grooming potential victims. For others, this was useful data in an offender's rehabilitation.

- 4.9 One local authority noted that exclusion is not an abolition of risk, as opportunities for offending may present in the most unlikely of ways, highlighting the need for additional support.
- 4.10 Several respondents commented on the benefits of the system in terms of offender management in addition to MAPPA. A private sector organisation highlighted the need for advances in monitoring technology on the basis of previous research. They suggested that agencies involved in MAPPA view electronic monitoring as a resource that offers additional robustness in the supervision and control of sex offenders, which they identified as a 'high risk group'. The private sector organisation felt that the limitations of radio frequency monitoring (that is, the inability to track movements) have, in some cases, led to agencies within MAPPA to commit additional resources to the supervision and surveillance of certain offenders. For example, voluntary organisations providing 24 hour supervision to offenders to help alleviate risk, or police increasing the level of physical monitoring to provide intelligence to the MAPPA group regarding the person's movements during certain times.
- 4.11 A partnership organisation added that GPS monitoring has the potential to reduce the burden on those classified as MAPPA level 3 offenders in the sense that they are currently subject to very expensive support packages. They felt that GPS has the potential to make MAPPA support potentially less intrusive for such individuals.
- 4.12 Two organisations – a partnership and an independent and professional body – argued that it is important however to ensure that – as an additional tool to MAPPA – GPS monitoring should not be seen as an automated mandate on the offenders, but rather each case should be assessed on the basis of its individual merits.
- 4.13 The most widely cited advantage of using GPS monitoring of sex offenders, as highlighted in the consultation document and indeed by a majority of responses, was the ability to create exclusion zones for the protection of the public. There was no other suggested alternative to monitoring an offender's adherence to orders imposed by the courts which include exclusion for certain zones outside of curfew times.
- 4.14 A private sector organisation suggested the use of a two-piece GPS device which could afford the ability to contact offenders with SMS messages or by calling them to notify of an approach to an exclusion zone.
- 4.15 Five responses, from three CJAs, a partnership and a third sector organisation, suggested the importance of GPS monitoring of sex offenders in improving public confidence in the system and in terms of their own security and protection. The partnership organisation did however suggest that it was important to note the danger of short benefits in terms of public confidence leading to over-use of GPS monitoring when not considered appropriate.
- 4.16 Many respondents noted the need to ensure that GPS monitoring, as with previous comments on electronic monitoring more generally, was not seen as a stand-alone measure and indeed formed part of a wider package of support

and rehabilitation. Several noted the need to ensure that traditional modes of supervision and support – this was seen as particularly important on the basis GPS is not 100% accurate.

Disadvantages / risks of GPS monitoring

- 4.17 There were a number of cautionary notes attached to GPS monitoring of sex offenders – most significantly around the need to obey the principle of proportionality, the need to ensure data protection / privacy regulations and the potential risks to rehabilitation.
- 4.18 A significant number of responses highlighted the need to apply a principle of proportionality to ascribing GPS monitoring and that this should be reserved for high risk offenders. For some there was a view that it should only be applied when appropriate and lawful, i.e. when the risks dictate the need for additional rehabilitative support and that it must be managed within the aforementioned MAPPA framework. A local authority suggested that continuous monitoring must be directly linked to the risk and as such there needs to be consideration of what happens when the perceived risk level is lowered.
- 4.19 A public sector organisation suggested that GPS monitoring could be used in a ‘targeted and judicious way’ with sexual offenders and not as a general tool to reduce custody levels or as a blanket policy for those placed on the sex offenders register. They argued that the particularly low recidivism rates of the majority of sexual offenders should be noted and that monitoring the whereabouts of individuals 24 hours a day should be reserved for higher risk offenders generally and linked to high quality assessment. Their view was the GPS is best applied to particular sub-group, for example those who deliberately target children, by providing specific exclusion areas around schools and playgrounds.
- 4.20 An independent and professional body drew insight from international experience stating that experience with GPS monitoring in Germany suggests that if targeted ethically and appropriately, a population of the size of Scotland would have fewer than 10 extremely high risk offenders who require monitoring to the highest level in the community. They argued that for these individuals alone GPS would be a beneficial enhancement to an intensive and carefully coordinated individual management plan but that for the general sex offender population the research and evidence suggest it would prove impractical, inefficient on cost and possibly counterproductive.
- 4.21 A partnership organisation argued that proportionality is also important in light of the vast amounts of data that might be produced, suggesting that agencies might have to interpret the data in a meaningful way in the assessment of risk. This might raise issues for those who may have responsibility for resourcing in relation to analytical assessment. As such, they argued that live monitoring of data from GPS should only be applied to a limited few, based on an assessment of risk.
- 4.22 A number of respondents highlighted the need to consider privacy rights and Data Protection. A local authority suggested that continuous monitoring of

behaviour infringes on human rights, whilst others argued that to mitigate against legal challenges there is a need to provide a clear legal framework for its use which can be agreed to.

- 4.23 A public sector body drew attention specifically to Data Protection Principles and stated that “The fourth Data Protection Principle requires personal data to be accurate and, where appropriate, up to date. It would be a concern if a GPS signal can ‘drift’ and misrepresent the position of the individual through no fault of their own when they are stationary”. They also highlighted the particular risks associated with web-based monitoring of the data.
- 4.24 Two responses – from a local authority and a partnership – suggested that this argument might be counteracted with the potential for GPS to monitor offenders more accurately, which may well provide an opportunity to demonstrate compliance, reform and good behaviour.
- 4.25 A small number of responses highlighted potential risks to rehabilitation on the basis of GPS monitoring. A local authority suggested that the use of GPS tracking can put a burden on CJSWs which will affect support, arguing that: “... if this data were to come directly to CJSW for us to manage and interpret this could impact on the nature/quality of the relationship between the offender and social worker which evidence has shown is pivotal to any change process.”

Should there be new legislative powers?

- 4.26 Question 6 asked: ‘Should new legislative powers be sought (for example to cover SOPOs)? Why?’
- 4.27 Thirty-three consultation responses directly addressed Question 6 of the consultation document. Of these responses, only two specifically advised against seeking new legislative powers for the use of GPS electronic monitoring – a local authority and an independent and professional body (albeit others advised caution on specific issues).
- 4.28 A local authority suggested that seeking new legislative powers was not necessary on the basis that Sexual Offences Protection Orders (SOPOs) are used to good effect currently by the Police and that any consideration of extending electronic monitoring should be left to existing statutory orders.
- 4.29 An independent and professional body argued that legislation for anything as powerful and radical as a SOPO needs monitoring carefully and reviewing regularly. The concern was that there is already extensive powerful legislation that is based on public safety apparently being considered ahead of individual rights with ‘unintended consequences’. They urged caution against legislation being created by the momentum of opportunity, rather than as a final resort and after much focused review of “what the status quo affords”.

Legislation in the context of legal rights

- 4.30 Six respondents representing two partnership organisations, a local authority, a public sector organisation, an independent and professional body and a third

sector organisation argued that new legislation is required for the use of GPS monitoring of sex offenders to ensure appropriate consideration is given to the European Court of Human Rights (ECHR) requirements, in addition to other legal rights and Data Protection.

GPS monitoring within SOPOs

- 4.31 A local authority and a public sector organisation suggested that any new legislation could guide and inform practice (in respect of Sheriff's) recognising that the use of remote electronic monitoring currently cannot be utilised within SOPOs in Scotland. Furthermore, the public sector organisation added that the use of such electronic monitoring should be an available disposal to the courts, Parole Board and MAPPA to allow for maximising use of the technology in an appropriately tiered response.
- 4.32 Three respondents, a third sector organisation, partnership and public sector organisation suggested that Privacy Impact Assessments (PIAs) would be required when GPS monitoring is enforced within this new legislation.
- 4.33 There was widespread discussion about the merits of new legislation to enforce GPS monitoring as a condition of SOPOs with a majority supporting the concept, albeit with some caveats.
- 4.34 Nine responses suggested that legislation is required to ensure effective enforcement of SOPOs and that offenders are abiding by the restrictions imposed on them through the orders. Three CJAs commented on the fact that SOPOs are applied for when the Police have concerns about the dangers posed by specific sex offenders and others recognised that the orders are a Police-led and administered enforcement. The perception for some was the Police force is limited in their available recourses to monitor and therefore GPS tagging could ease the burden.
- 4.35 Two responses, one from a local authority and another from a partnership suggested that GPS monitoring could be an automatic condition of SOPOs, whilst others felt it could simply be an option rather than an automatic condition.
- 4.36 Five respondents suggested that any legislative mechanism that allowed SOPO's to include GPS tracking could reduce some of the risks to the community. A partnership organisation added that: "Having to comply with conditions of a SOPO has proved to be a useful deterrent and reinforcement for some sex offenders but, as with comments above, it is more effective to have a range of interventions in order to support behaviour change".
- 4.37 There were a number of cautionary notes attached to the idea of adding GPS monitoring as an option within SOPOs. A local authority questioned what would need to be put in place to resource and manage this on a day-to-day basis from a police perspective, arguing that at present, Police Offender Management Units do not monitor or manage any enforcement of electronic monitoring and this would be additional work. Additionally, they felt that SOPOs are difficult to obtain post-conviction due to the strict criteria that needs to be met through the civil court process and this needs to be considered.

4.38 The need for regular review was highlighted by two partnership organisations, a local authority and an independent and professional body. They felt that as SOPOs are usually a five year order, there would be a need to regularly review the conditions of monitoring during this time and that it should not exceed the duration of the SOPO itself.

Young people and SOPOs

4.39 An academic institution highlighted concerns about SOPOs and GPS monitoring stating that MAPPA arrangements are relevant to a small number of young people under the age of 18 who have committed serious sexual offences and it is likely that it is from within this small cohort that any Police applications for SOPOs or court SOPOs would arise. As to whether SOPOs might incorporate electronic monitoring in some fashion in the future, they felt that the availability of such restrictive legislative powers to the courts and Police where young people under the age of 18 are concerned may merit a broader discussion in relation terms of fairness, proportionality and children's rights.

4.40 As in previous questions, a wide range of respondents highlighted the need to consider all of this in the context of proportionality.

Other views on the use of GPS with sex offenders

4.41 Question 7 asked 'What, if any, other views do you have on use of GPS with sex offenders that are not covered in the questions above?'

4.42 There were 27 direct responses to this question. Whilst some of these respondents simply sought to add their general support for the use of GPS monitoring for sexual offenders, the majority added some level of support with caveats attached, aligning with much of what has already been covered in the preceding questions in this section.

4.43 For example, several respondents added weight to the suggestion of the need for some degree of proportionality to be a condition of GPS monitoring for the most serious / high risk sex offenders, with some noting the relatively low levels of recidivism amongst sex offenders generally. A local authority suggested that a balance needs to be struck between meeting the needs of the public and managing sex offenders within their communities. Another local authority added that there could be a new form of classification for those sex offenders for whom GPS monitoring may be included. Two partnership organisations and an independent and professional body argued that some form of risk assessment should be standard practice to determine the necessary enforcement of GPS tagging.

The need for further evidence

4.44 A number of respondents argued that before new legislative powers are sought, there is a need to conduct a pilot study of enforcement to ensure legality, appropriateness of the enforcement and administrative challenges emerging.

- 4.45 A third sector organisation argued that the evidence for the effectiveness of GPS monitoring of sex offenders is currently uncertain. They drew reference to three specific studies and the relatively ambiguous evidence emerging. The evaluation of the Californian Supervision project which targeted 516 high risk sexual offenders between 2006 and 2009 showed considerably better outcomes in both parole compliance and both sexual and non-sexual recidivism (Gies et al., 2012) for the GPS group, (although the base rate for sexual recidivism was generally low in this study). However a study of 900 sexual offender parolees in Tennessee where 490 were tracked via GPS monitoring and the remainder assigned to a control group found no statistical difference in outcomes between the two groups (Tennessee Board of Probation and Parole, 2007). They concluded that studies of effectiveness of GPS tracking and sexual offenders to date have been hampered by an already documented low base rate of sexual recidivism, short follow up studies and lack of transparency around data, quoting a third study reported by Meloy and Coleman (2009).
- 4.46 As such, they and several other respondents argued that there is a need to assess further evidence and, importantly, to pilot a study in Scotland specifically.

Concerns around the media

- 4.47 A number of respondents highlighted concerns about the role of the media in discussing GPS monitoring of sex offenders. Their concern was the media needs to be handled on the basis of concerns that they will see GPS monitoring as exclusive to sex offenders and indeed this is likely to gain the greatest level of attraction in media coverage. Furthermore, this could cause concerns over enforcement and those who do not have GPS monitoring as a condition of their retribution.

Package of support

- 4.48 A consistent theme throughout the responses reinforced the need for electronic monitoring to be part of a wider package of support and indeed this question was no different. Furthermore, several respondents added that on this basis there was a need to clarify the specific role to be played by CJSW and other agencies.
- 4.49 An independent and professional body suggested that this is a necessity because GPS technology might show where an offender is, but not what they are doing. They added that in Germany, where this system is used, there is a huge investment in social work time to provide the right level of service and professional input to each case, alongside the GPS monitoring and other control measures. There, it is not considered appropriate to use GPS without that level of social work input and social workers are relieved of other cases to allow them the time to provide this intensive input and assessment.
- 4.50 A small number of other considerations were mentioned in response to Question 7, namely:
- Use of GPS may serve to save on the resources required to deliver 24/7

- Intensive Support Packages (3 mentions);
- Further discussion is required around making use of GPS as part of SOPOs (1 mention);
- GPS monitoring only reported in the consultation in the context of sentences of 4 years or more, consideration should be given to shorter sentences (1 mention);
- The limitations of GPS need to be considered in all activity and decisions (1 mention).

Persistent Offenders: Voluntary pilot

4.51 The next three questions in this section of the consultation paper looked at GPS in relation to persistent offenders. Question 8 asked: 'Should GPS monitoring be further explored as part of a voluntary pilot of tagging persistent offenders? Why?'

4.52 Thirty-eight consultation responses directly addressed this question, including a wide variety of comments in support or opposition to the idea of a voluntary pilot. On balance, support was more prevalent, with 22 responses showing favour for a voluntary pilot, compared with nine responses in opposition – seven responses did not directly offer support or opposition.

Support for a voluntary pilot

4.53 In total, ten responses declared their outright support for the introduction of a voluntary pilot of GPS monitoring in Scotland. This view was represented by three third sector organisations, two health boards, two local authorities, one public sector organisation, one independent and professional body and one private sector organisation.

4.54 In general, support for the pilot was given on the basis of the perception that persistent offenders were the most important audience for such a scheme, as mentioned by four respondents. An additional four respondents offered support due to the perceived need to pilot any changes in the legislation and ensure success on a wider legislative roll out.

4.55 A local authority and a third sector organisation suggested that their support was based on the fact that it is persistent offenders who are at the highest risk of reoffending and therefore this would be a beneficial exercise.

4.56 A private sector organisation commented on pilots in England stating that: "From our experience of working with Norfolk & Suffolk Probation Trust, it has proved the use of GPS tagging on prolific offenders can produce good results even within the boundaries of a voluntary pilot."

4.57 There was also an argument, as put forward by an independent and professional body that a voluntary pilot is necessary to avoid damaging confidence of sentencers or communities in the justice system.

4.58 Twelve other responses declared support for the idea of a pilot but with cautionary notes or caveats attached. These comprised three CJAs, two local

authorities, two public sector bodies, two independent and professional bodies, a private sector organisation, an academic institution and a partnership organisation.

- 4.59 One of the most widely cited objections amongst those supportive of the principle, was due to the perceived lack of success of the Hertfordshire pilot as referenced in the consultation document. As a counter to this however, one local authority argued that the results from this pilot suggest that persistent offenders can be motivated to comply because GPS can rule them out of investigations and demonstrate their motivation to desist. It also suggests GPS gives them a legitimate excuse not to associate with offending peers. In addition, they argued that it enables agencies to monitor patterns of movement and provide relevant supervision that reduces risk. In practical terms, they suggest that it was important to note that the reminder telephone calls to charge battery again suggests there is a necessity in most cases for some level of supervision or support to get the most from the exercise. A voluntary pilot in the Scottish context was seen as something that would assist learning.
- 4.60 A public sector organisation stated their support in principle, but that they would have a greater preference for a mandatory pilot. Some respondents also wished to reiterate the need for the pilot to be part of a much wider and more in-depth package of support for the offender.
- 4.61 Despite support at a conceptual level, reservations about a voluntary pilot were registered in the context of doubt over the success of such an activity. Three CJAs, a local authority and a partnership organisation commented that there were concerns over the nature of the pilot. This was on the basis of a voluntary activity with no sanctions could lead to a high attrition rate, as demonstrated in the above pilot, referenced in the consultation document. The knock-on effect of this would be ineffective or inaccurate reporting and therefore they felt that sanctions for non-compliance would be required.
- 4.62 Four responses, three from CJAs, and one from a partnership, commented that a pilot may be more effective if female offenders are the subjects. As the partnership's response noted: "...the recent Women's Commission Report, the current numbers of women offenders with children and the recent investment in services working with women offenders it may be worthwhile piloting GPS monitoring with a female cohort. Positive outcomes would hopefully include not only a cessation of offending, but enhancement of family relations".

Opposition to voluntary pilot scheme

- 4.63 Nine responses felt that a voluntary pilot scheme was not advisable – seven responses offered a straightforward 'no', whilst two added caveats to their responses.
- 4.64 For those saying no, all cited the perceived failure of the Hertfordshire pilot study as the reason for doing so and one, a partnership organisation – argued that they had reservations over the definition of the term 'persistent reoffending' which was open to incorrect interpretation.

- 4.65 Those offering a 'no', albeit with caveats, also cited the perceived lack of success in Hertfordshire, whilst recognising the potential benefits of undertaking such an exercise. An independent and professional body added that GPS can only be ethically and effectively used for the top end of the "critical few" very high risk offenders. Therefore they suggest that it is difficult to envisage a way in which it would be appropriate for such offenders to participate in a "voluntary" pilot.
- 4.66 Three respondents – an academic institution, a partnership organisation and an independent and professional body – registered concerns over the likelihood of attaining informed consent, particularly in light of the pilot group, i.e. persistent offenders.

Persistent Offenders: Other considerations

- 4.67 Those commenting but not necessarily explicitly declaring support or opposition added some additional considerations. For some there was a suggestion that enough pilots have been conducted and data could be extrapolated from these to make an informed decision. Others added that the use of a voluntary pilot could be beneficial for offenders in that it provides them with an excuse to opt out of deviant activity and reoffending.
- 4.68 There was also a suggestion that the proposed pilot offers no incentive to the volunteers and this should be amended to increase take-up.

Persistent Offenders: Legislatively backed basis

- 4.69 Question 9 asked: 'Should GPS monitoring of persistent offenders be further explored on a legislatively (as opposed to voluntary) backed basis? Why?'
- 4.70 In total, 37 responses addressed this question and the majority of these were in support of the suggestion that GPS monitoring of persistent offenders should be explored further on a legislative basis. Twenty-four responses declared support for this suggestion and six were opposed; those remaining offered comment without explicit support or opposition.

Support for a legislatively backed pilot

- 4.71 Fourteen respondents gave outright support for the further exploration of a legislatively backed pilot – represented by three local authorities, three CJAs, three other public sector organisations, two private sector organisations, one Health Board, one third sector organisation and a partnership. The majority argued that approaching the task in this way, with sanctions for non-compliance was more likely to reduce attrition rates and therefore produce better quality data and information. The CJAs commented specifically that the high attrition rate seen in voluntary pilots could be significantly lower if primary legislation is introduced around compulsory requirements and sanction for non-compliance.
- 4.72 A local authority added that a legislative basis could offer a more realistic reflection of how offenders might respond when consequences for non-compliance and poor behaviour are enforced. Another local authority

commented that if GPS monitoring is a consideration to manage persistent offenders, in terms of acquiring offenders in complying with this condition, it may have more successful outcomes if there is legislative backing and is used as an integrated / collaborative approach to deal with offender criminogenic needs. The respondent also commented that it might be considered as a more meaningful deterrent to encourage the offender to desist from reoffending.

- 4.73 Another local authority commented on the importance of persistent offenders, suggesting that they are responsible for a disproportionate amount of crime and typically present high level of risk and associated needs, often linked with substance misuse. A statutory requirement to comply with GPS as part of a community sentence could appear balanced and defensible.
- 4.74 Two responses argued that a legislative backed pilot should take place on the back of voluntary pilots.
- 4.75 Ten other responses offered support for a legislatively backed pilot but with cautionary notes or caveats. These were five local authorities, four partnership organisations and an academic institution. There was a strong view that the principle of proportionality should apply and indeed that more evidence was required to justify widened use of the approach. There was further support highlighted here by two responses that this should still take place subsequent to a voluntary initial pilot.
- 4.76 A partnership organisation argued that there are numerous crime types applicable to recidivist offenders and the assessment of those cases where GPS could and should be applied would have to take consideration of resources to monitor and the level and seriousness of offending taking place.
- 4.77 A local authority added that they would be interested in this being tested out and would support pilot programmes for persistent offenders encompassing two similar cohorts of offenders – one subject to electronic restriction and the other without a curfew restriction.
- 4.78 Finally, a partnership argued that legislative use of GPS monitoring for persistent offenders could offer some theoretical benefits and incentives including being able to timeously rule out some persistent offenders from police enquiries. Sanctions for noncompliance would need to be clearly stated and robustly enforced to ensure that GPS monitoring contributed directly to detection of crime/non-compliance with community-based supervision. They suggest that this would need, however, to be balanced against the cost of such a scheme and the measurable contribution to safer communities that such a scheme would offer.

Opposition to legislatively backed pilot

- 4.79 A local authority noted their opposition and suggested that persistent offenders are likely to have received every disposal available to the courts and Procurator Fiscal already, including electronic monitoring. The local authority argued that a legislative approach for this group seems unlikely to result in anything but a rise in breach of applications.

- 4.80 An independent and professional body suggested that the English Police and Crime Commissioners, who have been supportive from the outset of using GPS tracking on persistent offenders, have been campaigning quite stridently for a shift from a voluntary to a legally compulsory basis for using this technology. This was seen as a measure to increase the numbers of offenders on it, including recalcitrant offenders who would not otherwise volunteer. This led the response to oppose the measure.
- 4.81 It was noted by another independent and professional organisation that persistent offenders are a very wide constituency. The majority are considered to present low-risk of harm to the community, and petty acquisition is their main aim, often associated with substance abuse or addiction problems. For this reason, the organisation opposed the GPS monitoring on the basis of persistency arguing that it would be counterproductive.
- 4.82 Additionally, there was a suggestion that until such time as the experiment with the GPS monitoring system as a whole has been successfully tested, legislation cannot be based on fact. The risk of failure was seen as too great and the resultant delays in redrafting legislation would be counterproductive.

Further views

- 4.83 Question 10 asked: 'Have you any further views on either other potential voluntary uses of GPS or use of GPS with persistent offenders?' Twenty-five responses addressed this question.
- 4.84 The most common theme related to the need to ensure that GPS monitoring with persistent offenders is delivered in the context of a wider package of holistic support. As one partnership put it, "GPS linked to effective planning and partnerships poses great potential". A local authority felt that it could only be effective if used as part of a risk management plan with those who pose the highest risks to communities of reoffending. Additionally, a public sector organisation felt that the use of curfews and electronic monitoring in isolation is not a universal remedy; whereas electronic monitoring used in conjunction with rehabilitation mechanisms delivered via a multi-agency approach have the greatest potential to facilitate a reduction in reoffending.
- 4.85 Four respondents argued that there was a need to ensure a principle of proportionality, as per previous questions. An independent and professional body went further to suggest that the pilot in England, where the police use of voluntary GPS tracking – pending its potential mutation into something compulsory – was seen as implicitly tied to a much larger government strategy to use GPS tracking on a vast scale, perhaps to normalise its use with thousands of persistent offenders. They and others highlighted concern that the Scottish Government should not be considering following this example. Their view was that GPS tracking should have small-scale, niche uses with some offenders for some of their periods of supervision, arguing that there is no defensible ethical case for using it on all persistent offenders.
- 4.86 A series of other individual comments were received, namely:

- A need to consider initial piloting on female offenders;
- Rejection of piloting use of GPS instead searching existing evidence to make informed decisions;
- Consideration of remote alcohol monitoring as an additional concurrent measure;
- A review of the term ‘persistent offender’ to avoid misinterpretation;
- Partnering with local authorities and statutory and third sector organisations who are developing persistent offender programmes of their own;
- More of a role for GPS on less serious crimes but has multiple social problems.

Domestic abuse type offences

4.87 Questions 11 and 12 focused on GPS monitoring in relation to domestic abuse and question 11 asked: ‘What, if any, role do you believe GPS monitoring should have for use with domestic abuse type offences? Why?’ Thirty-eight respondents addressed this question.

4.88 Almost all respondents that commented envisaged GPS monitoring as potentially a useful tool in at least some domestic abuse circumstances, but most of these were also very wary about its widespread introduction. These respondents cited a range of possible drawbacks as well as the need to integrate the technique with other tools and methodologies for dealing with domestic abuse cases.

4.89 Most respondents discussed possible roles which could be undertaken by GPS monitoring, largely in general terms, but a minority also focused on the tool as a means for reinforcement of specific court rulings. The majority saw GPS in terms of possible benefits to victims of domestic abuse and indeed almost half (eighteen) of the respondents to the question saw it as a tool to enhance victim protection. A few of these respondents mentioned the benefits of having real time information and the added possibility of an immediate emergency response to possible threats to a victim’s safety.

4.90 Fourteen respondents saw the potential for GPS to enable bigger exclusion and / or restriction areas for offenders away from their victims than is currently the case, including in areas away from the victim’s home. Furthermore, five respondents specified the possibility of creating a warning or “buffer” zone around victims as an additional aid to stop offenders getting too close to their victims.

“We believe that GPS monitoring has the potential to provide extra protection for victims, as the use of GPS would enable extension of monitoring to cover the victims themselves without restriction to specific geographical locations”

(third sector)

4.91 Amongst a minority of respondents who specified the possible roles of GPS monitoring with regard to court decisions about individuals, the largest number (eight) recommended that it should be used only in the management of the

highest risk cases (e.g. repeat offenders, higher tariff offenders, stalkers). Respondents also suggested its use in the following domestic abuse scenarios:

- Enforcement of bail conditions (four respondents);
- Compliance with non-harassment orders (three respondents);
- Compulsory supervision cases (one respondent).

4.92 Around half of the respondents suggested reasons for their choices of possible roles for GPS monitoring. The greatest number (six) pinpointed the apparent precision of GPS monitoring, in that it might enable the mapping of offender movements as opposed to merely knowing whether or not the offender was in close proximity to his or her victim. Several (five) noted that GPS could act as an early warning system for victims. Four respondents thought that the monitoring of abuser behaviour could be an aid to help the abuser to make different behavioural choices. Four respondents cited evidence from other countries which have trialled or implemented the technology relating to the benefits of GPS monitoring to victims.

4.93 A majority of respondents posed possible problems with the use of GPS, although none dismissed the tool out of hand. Ten respondents were in favour of seeing evidence that it worked first, in the form of trialling or testing or piloting the technology.

4.94 Two respondents saw limitations or unreliability of the GPS technology (e.g. around high buildings, battery life) as problematic. Five respondents thought a higher priority in domestic abuse cases should be to focus on changing the behaviour of offenders, with two regarding GPS as a waste of resources, particularly regarding a foreseen requirement for 24/7 monitoring.

4.95 A number of respondents also cited potential problems for victims if GPS is used. Five respondents foresaw additional stresses for domestic abuse victims, in relation to the impact of information or alerts about the movements of the offender, with five respondents drawing attention to the requirement for the victim to be monitored as well, which could be seen as a restriction on their own movements as opposed to those of the offender.

4.96 On the other side of the coin, five respondents foresaw problems stemming from an offender taking advantage of the GPS equipment as a means to control victims, perhaps by repeatedly testing the limits of the exclusion area.

4.97 Most of the respondents, including those most favourably disposed towards the use of GPS, put forward provisos in the use of the technology, in the following forms:

- GPS monitoring should not be used as a standalone approach, but as part of a multi agency and multi tool package used to treat offenders (eleven respondents);
- GPS monitoring usage and testing should be broadened for use with other offenders such as alcohol abusers, stalkers and fire raisers, rather than confined to domestic abuse (eight respondents);
- There needs to be victim involvement and consultation in any application of

GPS monitoring (eleven respondents).

“While undoubtedly there will be a number of technological, financial and legislative concerns to be addressed, the most important consideration must be to alleviate any anxieties and concerns the victim may have in the use (and associated alerts) of the system. Appropriate consent, support and safety measures must be discussed and implemented prior to the commencement of any restrictions.”

(other public sector)

Further views

4.98 Question 12 asked: ‘Have you any other views on the use of GPS for domestic abuse on either a voluntary or a legislatively backed use?’ Thirty- two respondents made comments in response to this question.

4.99 The overwhelming majority of respondents who commented were of the view that the use of GPS monitoring for domestic abuse required legislative support. Amongst this majority, almost all made the case that GPS monitoring would be unlikely to be effective under voluntary use only. In fact, only a small number of respondents envisaged any role for its use on a voluntary basis, even with legislative back up.

4.100 Many respondents went on to explain very clearly their reasoning for perceiving GPS monitoring to be effective only with legislative support, giving a variety of scenarios and situations as examples. Other respondents who were potentially in favour of a role for GPS expressed concerns by drawing attention to potential drawbacks in applying the tool to real life situations, whether backed by legislation or not. A few respondents made other comments, most of which tended to centre on the need for more evidence of effectiveness in the form of testing or piloting before any sort of large scale implementation of GPS monitoring in domestic abuse cases could take place.

4.101 Nine respondents made the case that only legislation could give a clear back up to GPS usage, in order to make clear there would be consequences in the case of offender breach, and to help ensure compliance with court orders. Four respondents stated explicitly that new or altered legislation would be necessary in order for this to happen.

“We believe that in order to enforce GPS monitoring in a consistent fashion, and to de-escalate the pressure on victims who are seen to be consenting to an order which will affect the perpetrator, that new legislation should be sought. This would help legitimise the process of monitoring and ensure that decision making by those in authority takes precedence over consent.”

(private sector)

4.102 Among those giving examples of potentially effective usage of GPS on a legislatively backed basis, the following scenarios were given:

- Tracking of offenders and / or restricting their movements or imposing an

- exclusion zone (five respondents);
- As part of a victim safety plan (enabling automatic or early alerts, etc.) (four respondents);
- Making evidence gathering in relation to an offender admissible (two respondents);
- Addressing the risk of serious harm to victims (two respondents).

4.103 Four respondents added that GPS monitoring could be an extra tool in addition to the other processes used to deal with domestic abuse cases, rather than as a stand-alone method.

4.104 There were a small minority of respondents (four) who envisaged GPS monitoring as having some voluntary applications (though none without additional legislative back up). Two of these could envision a voluntary role purely at the pilot or testing stage of GPS monitoring. An independent and professional body respondent suggested that the option of carrying a receiver or alarm should be voluntary for the victim, but it should be mandatory for the offender if the victim refused.

4.105 Around half of the respondents to the question envisaged potential problems with the use of GPS monitoring in various situations. In particular, a large number (ten) were concerned that offenders could manipulate or exploit the GPS system to harass the victim, perhaps by repeatedly entering or leaving exclusion or warning zones, or finding out where the victim was situated. A major concern for eight respondents was the possible impact of victim restrictions, leading to fears about monitoring impacting victim wellbeing. Small numbers of respondents questioned the ability of services to provide a rapid response to an early warning or alert system, and raised the specific possibility of offenders discovering safe houses when victims had been located to them for their safety.

4.106 Amongst other comments made by respondents were:

- More testing / piloting / evidence finding required regarding GPS monitoring effectiveness (five respondents);
- Using GPS in other areas (e.g. alcohol monitoring) (2 respondents);
- Use GPS for bail enforcement only;
- Due weight should also be given to the impact on partners and children of persons subjected to GPS (one respondent each).

Bail

4.107 Question 13 asked: 'What, if any, role do you believe GPS monitoring should have for use with bail? Why?' Forty-one respondents made comments that addressed this question.

4.108 Almost all respondents who commented were positive about the idea of GPS monitoring being used in some form with bail, though all wanted its use restricted to certain scenarios rather than invoked as a blanket tool. Most respondents posited a variety of provisos or requirements that would need to

be met in order for GPS monitoring to be implemented. A small minority were against the idea of using GPS monitoring with bail in any circumstances.

4.109 By far the most frequently mentioned potential roles for GPS monitoring were in two areas: those of women offenders (nine respondents) and victim and/or witness protection and safety (eight respondents). In the case of women offenders, the main advantage was seen as reducing the female remand population by increasing the number of women given bail, particularly as relatively few women on remand end up being convicted. It was however noted by several respondents, notably some of the CJAs, that there were already other aids, supports, alternatives to remand and bail arrangements currently being developed and utilised which may be more effective.

“The well documented problem with the small number of women offenders on remand, who eventually go on to be convicted, would be an area that the CJAs would welcome development in addressing. Using EM as part of the whole package of supported bail, whilst linking in with the Shine PSP amongst others, would be an area to explore. Victim and witness protection would benefit from GPS EM bail. As with all areas the key is to give greater reassurance of public safety and increased confidence in the system.”

(Community Justice Authority)

4.110 Smaller number of respondents focused on specific types of bail scenarios and court orders where it was envisaged that GPS could play a useful role, including:

- Evidence for breach of bail cases (three respondents);
- Bail conditions where intensive supervision or special monitoring is required (three respondents);
- Cases involving alcohol monitoring (two respondents);
- Bail conditions where exclusion or restriction of movement requirements exist (two respondents);
- Domestic abuse bail conditions (one respondent);
- Bail conditions where the offender is under curfew (one respondent);
- Bail cases dealt with under solemn proceedings (one respondent).

4.111 A small number of respondents (three) recommended GPS use in high tariff or high risk of violence cases, though one of these specified only in high risk cases where bail was otherwise justified. One respondent added that GPS monitoring could enable an extended range of offences and offenders to be eligible for bail. One respondent however said that it should only ever be used in low risk cases.

4.112 Respondents gave a large number of reasons and advantages for the potential use of GPS as part of bail. The greatest number (six) gave the possibility of reducing the remand population, as bail would be a more feasible alternative in some cases. Five respondents foresaw a saving of resources in terms of police, social work or court work.

4.113 Four respondents saw an opportunity to use GPS monitoring as a tool to help reintegrate offenders into the community while on bail, as part of a support package or offender rehabilitation package, and two respondents hoped GPS usage would reduce reoffending. The benefits of being able to monitor and locate offenders on bail, particularly with reference to proximity to exclusion zones, were also pointed out by four respondents. Similarly, two respondents postulated a positive effect on bail compliance, and one hoped it would act as a deterrent to breach.

4.114 Small numbers of respondents also mentioned the following potential advantages which could emanate from the use of GPS:

- GPS could give an extra option, in between being in custody and remaining unmonitored in the community (two respondents);
- GPS could give an opportunity to introduce alerts or early notifications regarding offenders on bail (two respondents);
- GPS could remove strain from serious cases (one respondent);
- GPS could be tailored to individual circumstances (one respondent).

4.115 Most of the respondents cited either problem areas or further work that needed to be done before GPS monitoring was implemented for use with bail. A large number (nine) cited the need for more piloting and research work to get evidence about its effectiveness. Some respondents were specific about the areas requiring more work and knowledge:

- Community safety issues (three respondents);
- Justiciary issues (confidence of the judiciary, etc.) (three respondents);
- Cost implications (two respondents);
- Implementation of effective and speedy systems regarding breach (two respondents).

4.116 A few respondents raised legal issues and requirements. Two respondents noted that new legislation would be needed prior to implementation, and single respondents said there was a need for improvements to existing arrangements, and asked why the tagging as a bail condition pilot ended in 2010². One respondent also commented that there may be human rights ramifications in tracking non-convicted persons.

4.117 Several (six) respondents reinforced that GPS needed to be introduced as part of an overall package, rather than as a stand alone tool. A further four respondents were in favour of the introduction of GPS monitoring as long as it was proportionate and not introduced as standard. Two respondents were adamant that it should not be used to provide an alternative to remand.

4.118 Small number of respondents also made the following points:

- GPS monitoring could be resource intensive (e.g. the need to keep track of a live feed, adds complexity) (three respondents);

² [An Evaluation of the Use of Electronic Monitoring as a Condition of Bail in Scotland](#)

- Radio frequency would do the monitoring job well in many instances (two respondents);
- It could be inappropriate for some women (chaotic lives, etc.) (two respondents);
- Curfew time could be taken off time served, in cases where a custodial sentence was finally imposed (one respondent).

4.119 There were a small minority of respondents who foresaw no role for GPS monitoring with bail. Two respondents suggested that it was unsuitable for high risk offenders or those who shouldn't be on bail anyway, while two respondents thought the current bail supervision scheme worked well and needed no alteration. Finally, one respondent pointed out that a determined offender would simply cut off a GPS tag to avoid tracking.

Preferred use of GPS for bail and legislative powers

4.120 Question 14 asked: 'With reference to your answer above, do you believe your preferred use of GPS for bail can be covered within existing legal powers or should new legislative powers be sought?' Thirty-five respondents made comments in response to this question.

4.121 Of the thirty-five respondents answering this question, all but four expressly stated that new legislative powers would need to be sought to cover GPS usage for bail. There were no respondents who claimed that their preferred use of GPS for bail could be covered within existing legal powers. Of the four respondents who did not overtly state that new powers would be needed, two tended to be in favour of sticking to the current bail arrangements with no perceived need for GPS, one was unsure about the need for new legal powers and one regarded it as a matter for the legislators.

4.122 A large number of respondents (twelve) said that no powers currently existed to impose any kind of electronic monitoring with bail. Four respondents went on to comment that the relevant sections of the Criminal Procedure (Scotland) Act 1995 which previously included the legislative basis for electronic monitoring with bail were repealed by the Criminal Justice and Licensing (Scotland) Act 2010. Three CJA respondents however welcomed the Scottish Governments acceptance of recommendations made by the Commission on Women Offenders to examine the use of electronic monitoring as a condition of bail.

4.123 A few respondents mentioned provisos in relation to GPS monitoring. Three respondents were concerned that there was a danger of overuse of GPS monitoring by courts in cases where bail might be granted, and two others said more testing or piloting would be needed on GPS monitoring before bringing in any legislation.

4.124 Relatively few respondents went on to clarify the nature of what they believed new legislation should cover. Two respondents thought that full account needed to be taken of human rights or civil liberties. Two respondents stated that any new legislation should include all aspects of electronic monitoring,

rather than just GPS, and two respondents suggested that new legislative scope should be clearly defined.

4.125 Single respondents made the following points about legislative coverage for GPS monitoring for bail:

- GPS tracking and electronic monitoring need to be distinguished, in terms of the circumstances in which each might be used, the daily time limits and overall duration which apply to them and the uses to which any gathered data might be put, and by whom, over what retention period;
- New powers could address issues such as witness intimidation, failing to attend for reports or the commission of further offences;
- Cross-reference is needed to the Children's Hearing Act 2013;
- What the impact would be on CJSW and other colleagues and how compliance and any sanctions would be managed;
- If GPS monitoring is pursued as a condition of bail, then the sentencing conditions must be mandatory;
- Legislation would need to be amended to include GPS in the type of equipment and monitoring method;
- Restricted penalties would be needed for non-compliance;
- Could include an additional supervision requirement.

Other views on electronic monitoring and bail

4.126 Question 15 invited respondents to give any other views they had on electronic monitoring and bail. Twenty-one respondents made comments in response to this question.

4.127 There were more respondents who raised questions and concerns than who made general positive comments about electronic monitoring and bail. A number specified areas for which electronic monitoring could be used whilst others pinpointed requirements which they thought needed to be put in place before it could be used.

4.128 Several respondents focused on the possible benefits electronic monitoring could bring, mostly making general comments, rather than focusing on a specific area. Amongst the positives mentioned were:

- Offender benefits (rehabilitation, minimised disruption to family life, etc.) (four respondents);
- Victim and witness safety (three respondents);
- Cost savings (three respondents);
- Single respondents also mentioned resource savings and support for compliance with bail.

4.129 Six respondents suggested that electronic monitoring should only be used in specific cases and required targeting towards certain individuals on a case by case basis. Two respondents thought electronic monitoring should be used on high risk cases only, for example violent, sexual or domestic abuse offences.

4.130 Amongst the requirements thought necessary to be met prior to the introduction of electronic monitoring for bail were the following:

- Legal issues (alignment with current law, etc.) (three respondents);
- A balanced approach with other interventions (i.e. electronic monitoring should not be looked on as a replacement for current good practice) (two respondents);
- Immediate responsiveness in terms of real time on behalf of services (one respondent);
- Training for local authority criminal justice workers (one respondent);
- IT and accurate recording systems to be in place (one respondent).

4.131 Most respondents had a variety of concerns and questions about how electronic monitoring and bail would work. A high number (eight) were concerned about the widespread usage of electronic monitoring for bail becoming the norm.

“There is a danger that if bail with GPS tracking is introduced and used widely it will simply become a way of sucking more offenders into an up tariff measure resulting in more expense and pressures on limited resources.”

(Community Justice Authority)

4.132 Two of these respondents suggested that to prevent overuse, electronic monitoring could be targeted towards those who might otherwise have been remanded, rather than as a means of strengthening the conditions of bail for offenders who could have been bailed in any case. Five respondents however took the alternative view that electronic monitoring should not be an alternative to remand, and four of these respondents went on to point out that electronic monitoring wouldn't be a solution to the ever increasing remand population.

“Whilst some may see this as an alternative to remand this is not viewed as a realistic position from a resource perspective and the use of GPS should only be considered in specific cases. There will be a requirement for clear guidance on the suitability of individuals and risk before consideration of bail.”

(partnership)

4.133 Smaller numbers of respondents had reservations about various unknowns, including:

- Queries about resource usage (four respondents);
- Queries about expenses and costs (three respondents);
- Data usage and protection (e.g. whether electronic monitoring data could be admissible as evidence) (three respondents);
- Queries about using GPS rather than RF, where RF is sufficient in many cases (two respondents);
- Whether sentence remissions would be applied for electronically monitored offenders in cases where they were eventually convicted (two respondents).

4.134 Five respondents made suggestions as to the format of pilots for electronic monitoring of bail, all of which involved using individuals currently on bail anyway.

4.135 Other comments made by only one respondent were as follows:

- A preference for bail supervision procedures as currently run, rather than electronic monitoring;
- The potential for offenders to incur ‘technical’ breaches rather than any breach relating to a further offence and the impact this might have on the totality of the work involved in the bail process and ultimately custody rates;
- An urge for same day reports to be available as to suitability for bail as current report waiting times are causing many upheavals for offenders.

GPS use for all existing electronic monitored orders

4.136 Question 16 asked ‘Would you support a more widespread roll-out of GPS so that all currently monitored orders had an RF and GPS capability? Why?’ Thirty-four respondents commented directly on this question.

4.137 The majority of respondents who commented did not think this was appropriate; 22 respondents in all opposed the ‘blanket’ GPS monitoring approach, compared with seven who would support the move. Five respondents felt it was inconclusive whether or not a blanket approach was appropriate or not.

Reasons for opposing a more widespread approach to GPS monitoring

4.138 The 22 respondents who indicated a lack of support for the wider roll out of GPS beyond the specific groups highlighted and discussed earlier in the consultation document, comprised nine local authorities, five other independent and professional bodies, three CJAs, two private sector organisations, one partnership organisation, one other public sector organisations and one third sector organisation.

4.139 The most widely cited reason – mentioned by all but four of these 22 respondents was based on the perceived need to apply the principle of proportionality – or targeting – whereby only certain subsets of offenders should have the technology applied to them. This was based mostly on the offenders at highest risk of reoffending already discussed in the consultation document. As one local authority stated: “There is a place for judicious use of GPS monitoring, particularly in sensitive cases such as sexual offending, stalking, serious violence and particularly with young people through the Children’s Hearing system”.

4.140 A private sector organisation added: “The principle of proportionality leads to a logical conclusion that GPS should be used in cases where public protection is paramount and where the risk of reoffending is assessed as very high. Current resources committed by MAPPA groups fall short in providing a completely robust solution to manage risk, and the use of GPS will add to the resources available”.

- 4.141 The suggestion that GPS monitoring was more applicable when members of the public are at risk was shared by many.
- 4.142 A local authority felt that, while GPS monitoring conceptually was welcomed for persistent and higher risk offenders, the level of intrusion intrinsic in its use was not necessary or welcome in all cases.
- 4.143 A partnership organisation felt that the use of GPS for all was impractical and that the two approaches each serve a separate purpose: traditional RF monitoring serves the purpose of alerting authorities where there has been a breach, with GPS only being relevant for those requiring continuous monitoring.
- 4.144 Five respondents – two local authorities, a public sector body, an independent and professional body and a third sector organisation – cited the expense of the delivery of such a service as a barrier to its roll-out. This included the additional costs of monitoring and long-term service delivery, rather than simply the initial nominated £400k. It is important to note that all those who cited costs as a barrier also commented on the need for proportionality.
- 4.145 Two other barriers to a wider roll-out of the service were cited: the technical limitations of the devices (battery life and size) and that technological developments generally should be superseded by social ones.

Reasons for favouring a wider roll-out

- 4.146 Seven respondents – two local authorities, two third sector organisations, a public sector body, an independent and professional body and a Health Board – expressed general support for widening the roll-out of GPS based electronic monitoring.
- 4.147 There was recognition that the principle of proportionality should still apply and for those in favour, this could be achieved through a ‘tariffing’ system. One respondent also highlighted the importance of ensuring compliance with ECHR legislation.
- 4.148 Ensuring compliance with court orders was seen as one of the main advantages of a wider roll out.
- 4.149 One respondent, a public sector organisation, argued that RF units are currently useful for victims of, for example, domestic abuse in the sense that they warn of non-compliance from restrained ex-partners etc. However, they commented on the fact that the presence of a RF unit within the home can serve as a reminder of encountered abuse and therefore a ‘geo-fencing’ approach was generally preferable.

Additional comments

- 4.150 As previously noted there were a number of additional comments received from respondents who did not indicate either support or opposition. A partnership organisation felt that there needs to be a clearer case put forward for the “GPS max” option as referred to in the consultation document. A third

sector organisation and a public sector body felt that at present the business case for extensive roll-out needed to be strengthened and that a widespread roll-out of GPS could be better assessed on the basis of a more detailed identification of need and clear cost-benefit analysis.

- 4.151 One partnership organisation suggested that there is an assumption that any additional work would need to be absorbed by teams already stretched with MAPPA and Level of Service/Case Management Inventory (LSCMI) requirements and that this would need to be clarified by Scottish Government. Similarly, a partnership organisation argued that if the GPS technology is shown to be reliable, effective and flexible at monitoring and supporting offenders, then it seems logical to consider the widespread roll out. They continued however that if there are cost pressures and capacity issues around risk assessment and suitability for GPS then it may be more prudent to focus on high risk offenders, such as sex offenders and domestic abuse perpetrators.
- 4.152 Another partnership organisation felt there needs to be a move from assessment of technical suitability to an approach which addresses the particular risks/needs which might benefit from electronic monitoring.

Additional views on the use of GPS on a “maximum roll out” basis

- 4.153 Question 17 asked: ‘Please give any additional views that you have on the use of GPS on such a “maximum roll out” basis?’ Twenty-two respondents commented in response to this question with an additional two respondents simply seeking to reiterate the comments they made at Question 16.
- 4.154 Once again the key theme related to the need to ensure proportionality in the use of GPS monitoring of offenders. Seven respondents made reference to this, stating that it should only apply to the perceived risk level of the individual offender. A private sector organisation stated that it should only apply to monitoring for SOPOs and extended sentences.
- 4.155 Four responses – three from CJAs and one from a public sector organisation – made reference to the belief that greater use of GPS monitoring could increase public confidence in the system and in perceived security. Two respondents (a local authority and a partnership) suggested that there were concerns about media attention and GPS monitoring in terms of usage and costs of the service.
- 4.156 Related to this, three respondents also commented on the need to provide greater information and give greater consideration to costs generally.
- 4.157 ,Another theme related to privacy and ethics – highlighted in four responses, three from independent and professional bodies and one from a local authority, were concerns about privacy and civil rights. An independent and professional body stated that: “Ethically, and in terms of human rights, in terms of effectiveness, value for money, opportunity cost to other more effective CJSW interventions, and in terms of the potential counter-productivity in labelling and reinforcing identity, maximum roll-out is unjustifiable and undesirable”.

4.158 Another independent and professional body commented that the Regulation of Investigatory Powers Acts were introduced to make sure that such rights were protected and that surveillance could not take place without the express authority of a senior police officer and for a specific and limited purpose.

4.159 Other comments raised by individual respondents were:

- The need for a greater evidence base / research on the effectiveness of GPS monitoring;
- Merit in looking at how electronic monitoring could be used to support 'testing in the community', for example within the home leave process;
- Maximum roll out will be too expensive to justify;
- Support for SCRAM testing;
- Measures need to be introduced as part of package of rehabilitation.

5 OTHER ELECTRONIC MONITORING ISSUES

Alcohol monitoring

5.1 The consultation paper explained that a recent technological development in remote electronic monitoring is the capability to remotely monitor alcohol consumption. The paper went on to describe arrangements that are already in place to tackle alcohol misuse, the relationship between alcohol and offending and measures that might be possible under existing legislative and technical constraints.

The role of remote alcohol monitoring for use with an offender cohort

5.2 Question 18 asked: 'What, if any, role do you believe remote alcohol monitoring should have for use with an offender cohort? Why?' Thirty-nine respondents addressed this question in their responses.

5.3 The predominant theme in responses to this question was agreement that there may be a role for remote alcohol monitoring as an additional tool in a broader repertoire of measures to monitor and support offenders and potentially help reduce offending and deliver wider societal benefits.

5.4 Several respondents included comments or referred to data that highlights the significance of alcohol in relation to crime and one other public sector respondent commented: "The criminal justice system provides an excellent opportunity to engage with offenders, who have previously exhibited alcohol related violence and provide interventions to address this".

5.5 Two further main themes were evident amongst responses to this question. First and foremost, and reflecting comments at earlier questions, there was widespread comment that monitoring alone is unlikely to address problems of alcohol misuse and that access to treatment options and support as part of an integrated package will be required.

5.6 Second, there were wide ranging comments as to the circumstances in which remote alcohol monitoring might be appropriate, helpful, or particularly helpful. Most commonly, with reference in 11 responses, respondents saw it as potentially helpful in cases where alcohol use is a key risk factor / for persistent offenders linked to alcohol-related offending. Other suggestions included:

- As part of a CPO;
- As an alternative to prison;
- As a condition of release / parole;
- In the case of problem drinkers, rather than necessarily dependent drinkers (one respondent, however, noted that a tool which brought alcohol use to light and therefore allowed further opportunity for support and motivation to avoid alcohol use in a public health manner might still be of value in the case of chronic alcoholics);
- For those who have committed offences involving serious harm whilst under the influence of alcohol and / or those where compliance with less intrusive measures has been problematic;

- For certain categories of serious, violent and sex offenders who require close monitoring and supervision;
 - For persons released on HDC and who are not permitted to consume alcohol;
 - In cases where parents require to address alcohol and drug issues before having access/care of their child(ren) again.
- 5.7 A smaller number of respondents cited examples of circumstances where the use of remote alcohol monitoring might have potentially adverse impacts. These included:
- Occasions where alcohol use is given as an excuse for offending e.g. domestic abuse. One respondent felt it might psychologically assist with dissociation from taking responsibility for one's own behaviour, reinforcing that alcohol was the 'reason' for the offence.
 - In some black and minority ethnic communities or for religious reasons that might impact; one respondent felt that remote alcohol monitoring might further ostracise and reinforce stigma within certain communities e.g. Muslim or Sikh.
- 5.8 The next most commonly recurring theme, noted in comments from six respondents, related to the need for more data or pilot evidence to be available, or for pilot studies in Scotland to assess further the accuracy of the technology and / or the effectiveness of remote alcohol monitoring.
- 5.9 Two other respondents cited data from the United States that indicated some success of remote alcohol monitoring in reducing recidivism and one of these, a private sector organisation, also referred to a volunteer pilot programme conducted by Barlinnie prison in 2012 using SCRAM sobriety tags.
- 5.10 Other issues that were cited by smaller numbers of respondents included the need for more information on the costs associated with remote alcohol monitoring and/ or the cost effectiveness relative to alternative interventions or treatments, proportionality and also questions or requests for clear guidance regarding both appropriate use and response to/management of any breaches.

Further exploration of remote alcohol monitoring service

- 5.11 Question 19 went on to ask 'Should remote alcohol monitoring service on either a voluntary or compulsory basis (and within or outwith the criminal justice system) be further explored? Why?' Thirty-six responses included comments relating to this question.
- 5.12 The overriding theme in responses was one of agreement that remote alcohol monitoring should be further explored. Thirty-two respondents' comments conveyed explicit or implicit agreement that some form of further exploration should be undertaken, compared with two respondents, both local authorities, who disagreed; the remaining two who commented (a partnership and another independent and professional body) made observations without clearly indicating either agreement or disagreement.
- 5.13 Seven respondents clearly suggested that further exploration should be on a voluntary basis, at least in the first instance.

- 5.14 Many comments served to reinforce or reiterate key themes from question 18 and earlier chapters of the report. For example, the need for this to be part of a wider package of measures not only to monitor but also support change, and the importance of using any available tools to help tackle the prevalence of alcohol in crime within Scotland.
- 5.15 Amongst respondents who favoured a voluntary basis for further exploration, a key theme was the support this could provide for those who feel they would benefit from additional accountability to control their drinking. In addition, one independent and professional body noted that this would help “justify not drinking to peers and helps them to resist relapse on a personal level”.
- 5.16 A further recurring theme, particularly amongst respondents favouring a voluntary basis in the first instance, is the need to test the efficiency and effectiveness of the technology within a voluntary context.
- 5.17 Amongst the small number (four respondents) who explicitly favoured compulsory measures, some alluded to the likely greater effectiveness of compulsory measures.
- 5.18 A number of comments related to the cost and resource implications, and specifically the cost effectiveness, of remote alcohol testing on a voluntary or compulsory basis either within or outwith the criminal justice system. Four respondents, most notably local authorities, felt that further information on the cost effectiveness and value of remote alcohol testing relative to other tools would be desirable. One local authority commented that it might provide a cost effective alternative to custody and a third sector respondent noted that remote alcohol monitoring might not be cost effective if there were no sanctions for non-compliance. A partnership respondent who felt this should be progressed on a statutory basis commented that there could be resourcing implications per se and potentially difficulties in determining who should respond to breaches in real time.
- 5.19 Other comments regarding further exploration included:
- The relationship between tagging and alcohol misuse, which may lead to children being more vulnerable if a parent has to remain in the house and misuses alcohol / substances with the children present;
 - An observation that remote alcohol monitoring is likely to be challenged under Human Rights law, albeit the independent and professional body that commented believed these challenges could be overcome;
 - That consideration should be given towards any programme involving the use of a remote alcohol device being supported by an allocated supervising officer or mentor.

A national criminal justice appointment service reminder

- 5.20 The paper discussed a further issue in relation to technology, specifically the potential for an electronic reminder service to be provided by the electronic monitoring service provider whereby messages can be sent to the display screens on Home Monitoring Units and/or to the mobile phone of offenders

using the contacts database and call scheduling software. The paper noted that similar "nudge" schemes have decreased rates of missed appointments and that whilst some local authorities in Scotland already run similar schemes there may be economies of scale to running such a service nationally.

- 5.21 Question 20 asked 'Should a national criminal justice appointments reminder service be introduced? Why?' Thirty-five responses included comments addressing this question.
- 5.22 There were relatively disparate views as to whether a national reminder service should be introduced with eight respondents broadly agreeing, six respondents disagreeing and thirteen suggesting a degree of agreement but with cautionary notes or caveats. Two respondents offered comments without a definitive view of either agreement or disagreement. The main themes that emerged in comments were consistent regardless as to whether respondents agreed or disagreed, and related primarily to the cost effectiveness of a national service and the need for a national service.
- 5.23 In relation to need, several respondent organisations indicated that they already use a form of reminder service and some went on to question whether a national service was necessary if local facilities are in place, whilst others welcomed the suggestion.
- 5.24 The perceived benefit of a national service was frequently linked to queries regarding cost effectiveness; one local authority respondent who expressed welcome for discussion of a national scheme commented that: "This authority already operates an electronic reminder service and believes that it can be a very useful tool to remind service users of their appointment times. Our system works through sending SMS text messaging to mobile phones through a central provider for a relatively small monthly cost". Another respondent (partnership) commented: "This is a superficially attractive suggestion, but as pointed out in the consultation document, local authorities have their own arrangements for reminding offenders about appointments and the cost of replacing those arrangements with a national system tied to a contract would have to be taken into account."
- 5.25 There were also mixed views expressed regarding the efficacy of this type of scheme. Some respondents suggested this could be helpful to those with chaotic lives and others indicated that those with chaotic lives would be least likely to benefit.
- 5.26 A third sector respondent commented "staff already operate this system. They send a text the day before a meeting which is very helpful with chaotic service users who are far more likely to attend meetings when they are reminded of them in advance."
- 5.27 In contrast, a partnership respondent observed: "We have piloted text messaging to remind individuals and this has been shown to make little difference in attendance rates. One of the challenges is the chaotic nature of many individuals with substance problems and the fact that contact details can change on a regular basis." The respondent also added that: "Cognisance must

also be given to the current welfare changes and inequalities in Scotland. These changes and inequalities can make it difficult for offenders to maintain contact with services due to constant change of address, lack of transport, lack of finance to purchase/maintain mobile phones and poor health status.”

5.28 Another theme that was evident in a small number of responses related to the merits or otherwise of an initiative that removes or alleviates personal responsibility to remember appointments, and whether this is to the long term benefit or detriment of offenders.

5.29 Other considerations that were noted in responses at this question included:

- Potential concerns regarding data protection/security and confidentiality linked to a national database;
- A perception of depersonalisation through use of a national service;
- Increased bureaucracy.

Additional comments on any aspect of electronic monitoring

5.30 The final question of the consultation paper invited respondents to give any additional views they had on any aspect of electronic monitoring, either GPS or RF, not covered elsewhere in the document. A total of 17 organisations provided additional comments at this question or elsewhere in their response that have not been reported under other specific questions.

5.31 Several respondents provided additional background information about their organisation and its role and some expressed gratitude for the opportunity to submit their views.

5.32 There was comment, notably from CJAs, that it will be important to constantly consider and review the best use of technological developments as increased functionality emerges.

5.33 Reflecting consistent themes earlier in the report, several respondents commented again that electronic monitoring is only one tool in facilitating desistance from offending. Once again, respondents cautioned that an integrated approach is important.

5.34 CJAs cited data linked to potentially adverse effects associated with young people under current RF monitoring, particularly within a home environment.

5.35 In relation to children and young people specifically, a third sector respondent also reiterated that support and supervision must accompany any electronic monitoring programme for children and young people and that in isolation it will not change people’s beliefs and attitudes or reduce offending behaviour.

5.36 Another public sector respondent commented that where electronic monitoring is used in early release as HDC it could be used in conjunction with robust risk assessments and following a social work assessment. Similarly, a partnership commented that: “EM should always be considered on the basis of a robust risk assessment and the means found to ensure that its use is targeted on discrete

groups/categories of offender. In this context there may be a need to restrict availability within a clear set of eligibility criteria.”

5.37 The question was posed by CJAs as to how welfare reform will impact on the use of electronic monitoring, in particular the Spare Room subsidy.

5.38 One local authority commented that “any increase in the use of electronic monitoring needs to result in both a decrease in the amount of people being sent to prison and also an increase in the safety of the public”.

5.39 Other comments included:

- The importance of ensuring any use of GPS meets the tests of proportionality and ECHR compliance;
- The need to ensure that the GPS technology used to monitor offenders is up to date in order to avoid errors in establishing an offender’s location;
- The need for reference in legislation to procedures relating to the retention and destruction of personal data to which electronic monitoring might give rise;
- That legislation should be written to suit the scope of the technology currently available and to allow for some future development of the technology;
- The practical operation of the GPS tag device needs to be designed for ease of operation with ongoing development of the power use and recharging process to reduce the operational barrier for people wearing it;
- The training of people handing down sentences should include special information on the options available within community sentences, especially as the use of electronic monitoring is being developed;
- Concerns regarding possible implications for staff in social work if a national reminder service is introduced and they do not initiate the electronic alerts, for example that offender’s legal representative could use this as a reason he/she did not attend an appointment;
- Questions around why the consultation was launched without prior research and testing in Scotland to demonstrate effectiveness;
- Concerns relating to the use of GPS for offenders on unescorted and home leave, suggesting that for those that would adhere to the conditions there is limited use to this technology and those that abscond may remove the tag;
- An observation that the presumption about use for sex offenders serving custodial sentences of over 4 years seems to contradict those other areas of the consultation, such as bail and voluntary use ;
- Concerns that the use of electronic monitoring at all raises controversial ethical and human rights questions;
- Concern that those tendering to supply GPS monitoring could only quote acceptable unit costs if it was rolled out on a wider basis than is strictly appropriate.

APPENDIX

APPENDIX 1: LIST OF ORGANISATIONS

Organisation name
Local government
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
Falkirk Council
Fife Council
Glasgow City Council
Inverclyde Council
North Lanarkshire Council
Orkney Council
South Lanarkshire Council
West Lothian Council
Partnerships
Argyll, Bute & Dunbartonshire's Criminal Justice Partnership
Borders Alcohol and Drug Partnership
City of Edinburgh Council Offender Management Committee
East and Midlothian Offender Management Committee
East Renfrewshire Community Health and Care Partnership
Lanarkshire Alcohol and Drug Partnership
Renfrewshire Alcohol and Drug Partnership
Community Justice Authorities
Glasgow Community Justice Authority
Lanarkshire Community Justice Authority
North Strathclyde Community Justice Authority
Health Boards
NHS Ayrshire & Arran
NHS Greater Glasgow and Clyde
Other Public Sector
Community Safety Glasgow
Police Scotland
Violence Reduction Unit
Information Commissioner's Office

Private Sector
3M UK PLC
Alcohol Monitoring Systems
G4S Care and Justice Services
Third Sector
Barnardo's
Circle
Families Outside
Includem
National Organisation for the Treatment of Abusers
Positive Prison Positive Futures
Sacro
Scottish Women's Aid
Victim Support Scotland
Academic
Centre for Youth and Criminal Justice
University of St Andrews and University of Glasgow
Other Independent & Professional bodies
Howard League Scotland
Joint Faiths Advisory Board on Criminal Justice
Law Society of Scotland
Policy Exchange
Scottish Association for Social Work
Scottish Consortium on Crime & Criminal Justice (SCCCJ)
Scottish Working Group on Women's Offending (SWGWO)

Social Research series
ISSN 0950-2254
ISBN 978-1-78412-880-7
web only publication
www.scotland.gov.uk/socialresearch

APS Group Scotland
DPPAS39009 (10/14)

