

# RESTORE JUSTICE

## Home Detention Curfew Briefing

### What is release on Home Detention Curfew?

Some prisoners are **released before the halfway point** in their sentence on Home Detention Curfew. People have heard of prisoners being released halfway through their sentence but may not realise that many are being let out even earlier.

### Who is eligible?

Home Detention Curfew is available to many offenders who are serving a sentence of imprisonment of at least 12 weeks but less than four years. Generally, they must serve at least a quarter of the sentence and a minimum of 28 days in prison.

As with any sentence, the custodial period might include the time spent on remand in custody. It might also include a credit against jail time where the offender was on bail with an electronically monitored curfew ("tagged bail").

Offenders are entitled to a [half a day deduction](#) from their custodial sentence for every day of tagged curfew. For these reasons, release can occasionally take place very soon after sentence. In these circumstances, the law requires offenders to serve a minimum of just 14 days in custody after sentence before they can be released on Home Detention Curfew.

### The Government dropped planned changes to release on Home Detention Curfew

This Government<sup>1</sup> planned to increase the time some prisoners can spend at home from 4.5 months to 6 months before the halfway point in some sentences. The change is contained in [The Criminal Justice Act 2003 \(Early Release on Licence\) Order 2020](#). This statutory instrument was before Parliament in May 2020 and was due to come into force on 4 August 2020. It had nothing to do with the early releases taking place as a result of the coronavirus crisis and will be a permanent change to early release. After the [backlash](#) from own Conservative MPs, the government was [forced to drop it](#).

### How much time off do offenders get before the usual automatic release at the halfway point in their sentence?

The maximum period of release is currently 135 days (approximately 4.5 months) *before* the halfway point in the sentence when prisoners would be automatically released.

### Number of Offenders

Although **there is no statutory entitlement to release on Home Detention Curfew**, the policy is that **offenders** who are eligible and suitable for the scheme **are released on, or shortly after the Home Detention Curfew eligibility date** (HDCED), wherever possible.

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<sup>1</sup> <https://www.gov.uk/government/ministers> - as of February 2020

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Latest statistics (as at May 2020):

[36% of all eligible prisoners](#) were released before the halfway point in their sentence on Home Detention Curfew in the latest year for which information is available [**45% of female prisoners and 36% of male prisoners**].

[48% of prisoners](#) sentenced to 2-4 years in prison were given this early early release [59% of women and 48% of men].

[21% of all releases](#) from prison were early early releases on Home Detention Curfew.

Prisoners serving longer sentences for more serious offences are [more likely to be released](#) before the halfway point and for [longer](#) than those serving shorter sentences.

## Trends

The number of those released on Home Detention Curfew has [increased](#) from 9,042 offenders in 2016 and 9,320 offenders in 2017 (21% in both years) to 14,769 in 2018 (36%).

## History

When it was first introduced the time off before the halfway point was a maximum period of 60 days (2 months). It is currently 135 days (4.5 months), although [the Government tried to increase this to 180 days \(6 months\)](#). Luckily with the help of Restore Justice and government's own backbench MPs' rebellion the proposal has now been abandoned.

## Actual sentences that are/will be served by those released on Home Detention Curfew

Original prison sentence given in court	Actual prison sentence served by those released on full HDC	Sentence not served in prison
3 months	4 weeks	2 months
4 months	4 weeks	3 months
6 months	6 weeks	4.5 months
9 months	9 weeks	6.75 months
12 months/1 year	3 months	9 months
18 months	4.5 months	13.5 months
24 months/2 years	7.5 months	14.5 months

## Restore Justice Position

Release on Home Detention Curfew piles dishonesty on top of dishonesty. For a Government that wants to be seen to be tough on criminals should reduce the HDC eligibility rather than try to increase it.

The [Government](#) suggests that letting people out early helps prisoners to "prepare for resettlement" but some of these prisoners have only just gone into prison as the minimum time they must spend in prison is only 28 days - or even 14 days in some circumstances.

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It appears that the Ministry of Justice is relying on the fact that people have no idea what is going on as the public think automatic release at the halfway point is bad enough.

A recent poll of more than 1,000 former police officers for Restore Justice showed the strength of feeling about this proposition. Most wanted to see sentences served in full which is something Restore Justice wholeheartedly supports - honesty in sentencing being one of our main aims. However, when specifically asked about this latest proposal by the Government, just 2.2% of retired police officers thought that it was reasonable. 4.8% thought the current deduction was reasonable. However, the overwhelming majority - 88% - were opposed to any release before the halfway point or at all.

It is time the Ministry of Justice listened to people and the police and stopped perpetuating this wholly dishonest approach to sentencing which is completely at odds with what the vast majority of the public want.

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## NOTES

### 1. Government Guidance

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/790670/home-detention-curfew-pf.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790670/home-detention-curfew-pf.pdf)

#### Calculating the HDCED

4.3.16. The eligibility date is determined by length of sentence, as set out below:

Sentence length	Requisite period to be served before the HDCED	Approximate range of minimum and maximum curfew periods	HDCED calculation
12 weeks or more but less than 4 months	28 days	Between two weeks and one month depending on length of sentence	28 days – remand time. Apply the figure obtained to actual date of sentence
4 months or more but less than 12 months	One quarter of the sentence	Between one month and 3 months depending on length of sentence	No. of days in sentence ÷ 4 (rounded up) – remand time.
Between 12 months and under 18 months	One quarter of the sentence	Between 3 months and 4 ½ months depending on length of sentence	Apply the figure obtained to actual date of sentence
Between 18 months and under 4 years	135 days less than half the sentence	135 days	Effective CRD – 134 days

### 2. Current Statutory Instrument – before Parliament – proposed to come into effect on 4 August 2020

[http://www.legislation.gov.uk/ukdsi/2020/9780111194461/pdfs/ukdsi\\_9780111194461\\_en.pdf](http://www.legislation.gov.uk/ukdsi/2020/9780111194461/pdfs/ukdsi_9780111194461_en.pdf)

### 3. Previous Statutory Instrument to increase early early release to 6 months before the halfway point in a sentence explanatory memorandum

*“The objective of this change is to extend the benefits of HDC to those already eligible for the scheme by increasing the maximum period to 180 days, i.e. 6 months, to enable offender to better manage the transition on release from custody and prepare for supervision on licence in the community. It will have the added benefit of reducing prison population pressures by allowing suitable offenders to be managed in the community rather than in custody for just over 6 weeks (45 days) longer.”*

[http://www.legislation.gov.uk/ukdsi/2019/9780111188910/pdfs/ukdsiem\\_9780111188910\\_en.pdf](http://www.legislation.gov.uk/ukdsi/2019/9780111188910/pdfs/ukdsiem_9780111188910_en.pdf)

### 4. Impact Assessment

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*“...our best estimate suggests the policy will increase the HDC population by up to 750 when it reaches steady state...”*

Monetised costs of change	£2.0 million
Monetised benefits of change	£1.1 million

Costs associated with this increase in offenders on Home Detention Curfew include probation and curfew costs. Savings come from marginal costs of prison places.

[http://www.legislation.gov.uk/ukia/2020/28/pdfs/ukia\\_20200028\\_en.pdf](http://www.legislation.gov.uk/ukia/2020/28/pdfs/ukia_20200028_en.pdf)

## 5. Conservative position on announcement on the introduction of Home Detention Curfew – 20.11.97

[Brian Mawhinney](#) (Shadow Home Secretary challenging the then Home Secretary Jack Straw)

*“Will the Home Secretary also confirm that most people sentenced to six months—who would usually serve only three months—by the courts, will, with time on remand and this scheme, effectively be able to walk free from the court, despite its decision that they should serve six months? How does he believe that that will reassure the public? Indeed, **will he confirm that he does not believe in honesty in sentencing?**”*

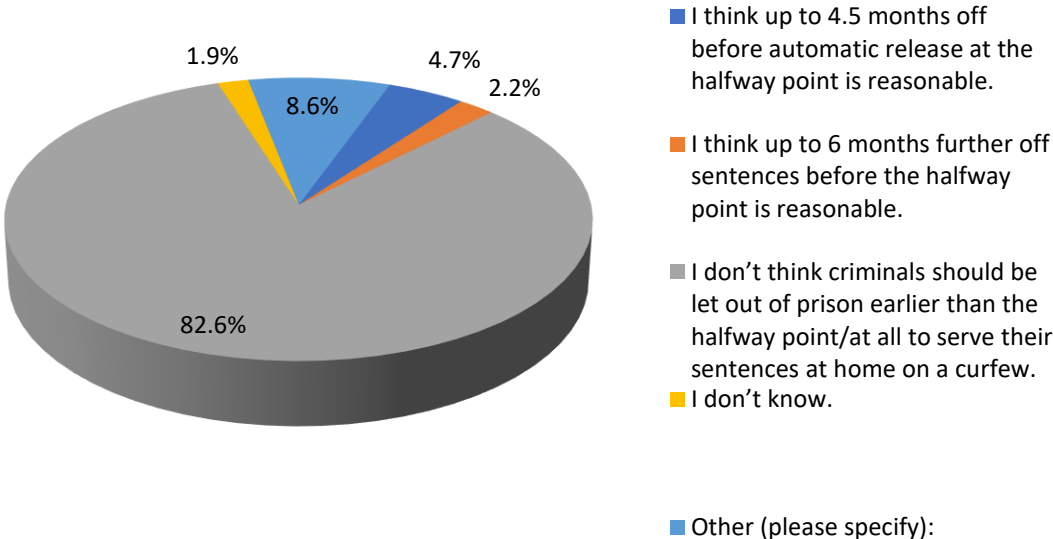
***Today, we have seen a significant shift in this country's penal policy—from the victim to the criminal—and all to save the Chancellor of the Exchequer some money. We will not take any more moral lectures from the Home Secretary or the Prime Minister.....Crime rates are coming down as prison numbers are going up—a trend which he is determined to reverse, not because he believes in it, because I do not believe that he does, but because he has been told to get up and say so by the Chancellor of the Exchequer. I tell him now that when this bit of the crime and disorder Bill comes before the House, we will resist it.”***

## 6. Survey of retired police officers (1,129 respondents)

- 82.6% have said they don't think prisoners should be let out earlier or at all on home curfew. (see full question and graph below)
- Of the answers to “Other” (8.6%) 84.5% made it unequivocal in their response that they disagreed with letting prisoners out early on home curfew and 68% of those stated that sentences should be served in full.

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Prisoners sentenced to 3 months – 4 years in prison are eligible to be released up to 135 days (approximately 4.5 months) before the halfway point of their sentence on Home Detention Curfew. They are currently potentially eligible generally after they hav



## 7. Victims' Views of Court and Sentencing Report

Commissioner for Victims and Witnesses in England and Wales (October 2011) - report on [Ministry of Justice](#) web page:

*"Finally, there was clear dissatisfaction about apparent failures to enforce many sentences fully. In particular, if a fine is imposed, it should be paid; if compensation is granted, it should be received; if Community Payback hours are sentenced, they should be carried out; and **if a prison sentence is imposed, it should not be automatically halved.**"*