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The Rt Hon Lord Foster of Bath
Chair, Justice and Home Affairs Committee
House of Lords
London,
SW1A 0PW

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9 January 2026

Dear Lord Foster,

Response to Justice and Home Affairs Committee investigation into Electronic Monitoring

Thank you for your letter of 5 November setting out the Justice and Home Affairs Committee's findings and recommendations following its investigation into Electronic Monitoring (EM). I am grateful for the insight the Committee has provided and its commitment to ensuring EM is used effectively, proportionately, and for the benefit of victims and public protection. I thank you and the Committee for the thoughtful contributions and appreciate the thorough recommendations that have been put forward.

EM is a valuable tool within the criminal justice system, helping to strengthen offender management in the community whilst also contributing to wider priorities of reducing reoffending and continuing to protect the public. EM can alternate between serving as a punishment, as an added protection and reassurance to victims, and as an effective alternative to custody by supporting an offender's reintegration into the community.

Our landmark sentencing reforms included in the Bill currently making its way through parliament will ensure we never run out of prison places again by delivering punishments that work, and support offenders to turn their backs on crime. We are continuing to build the evidence on the effectiveness of EM, identifying offence types and offender groups where we see it having particular impact on behaviour. We will expand the role EM can play in the criminal justice system and maximise its benefits even further.

However, I recognise, as the Committee has done in its findings, that there are challenges we must continue to tackle along the way. I welcome the Committee's input on these issues and have set out below our responses to the helpful recommendations it has put forward.

Ministry of Justice Responses to Recommendations

Publishing a new Electronic Monitoring strategy

Committee recommendation: The Government should, as a matter of priority, publish a new Electronic Monitoring strategy, one that comprehensively covers the rollout, scaling, and implementation of the Government's new approach to Electronic Monitoring, including the addressing of ethical issues, and the intersection between EM and AI.

This strategy should clearly identify the purposes of EM orders and set out how EM will be used to support the suite of options available to probation and not simply become a proxy for effective probation work. It should highlight the differences between using EM on offenders and defendants, and show the evidence base for different uses, both whilst the EM order is in place and afterwards. It must also outline how the use of developing technologies will be incorporated in future.

Government Response: Reject

Clear communication is essential if the expansion of EM is to work well. I agree with the Committee that we must also improve how we explain the purpose of EM to the public, practitioners, and the judiciary in a way that is clear and consistent.

I agree with the Committee that EM should be understood as a tool to support probation practitioners in managing offenders and improving outcomes, not as a replacement for the skilled work they do. The evidence submitted to the Committee makes clear that EM is only effective when paired with high quality probation practice. This aligns with the Independent Sentencing Review, which concluded that EM 'must be delivered in conjunction with skilled, well- resourced- human support for offenders so they can be rehabilitated'¹.

It is for this reason that I do not intend to produce a standalone EM strategy which decouples it from our overall roadmap for sustaining and modernising the probation service. With use and application of EM due to expand particularly significantly for post-custody licence, it is imperative that EM is approached as a tool for probation practitioners rather than a separate intervention, as has been the case to an extent in the past.

However, as I set out above, I do agree with the Committee that communicating the role of EM is imperative. We will look to communicate and describe the role that expanded EM will play in delivering our aims within any wider scene-setting for the probation service itself. This would include the purposes of EM, our approach to strengthening the evidence base, and the areas in which we intend to drive further innovation.

Additionally, whilst I am mindful of the Committee's view that service performance on its own is not enough to communicate the virtues of EM, I do wish to restate that greater efficiency is critical to being able to achieve much of what the Committee has detailed in its findings. I am steering work to integrate our approach to stabilising, scaling, and transforming delivery of the EM Service, by coordinating activity across the department and our suppliers into one place with one reporting structure.

I will engage further with the Committee as any activity progresses.

¹ Independent Sentencing Review - Final report and proposals for reform (pg.128)

The evidence base

Committee recommendation: The MoJ must conduct further longitudinal studies to assess the long-term efficacy of EM, both pre- and post-tag removal, in terms of reducing reoffending, supporting victims, and detecting crime.

Government response: Partially Accept

I am grateful to the Committee for their findings on continuing to build the evidence base and for the opportunity to discuss the progress we have made on this front during my evidence session. I am in complete agreement with the Committee on the importance of robust research driving decisions on use and application of EM. Over the course of 2025, the MoJ published three separate peer reviewed evaluation studies detailing the impact we have seen EM have on different offender cohorts:

- a) A study of Radio Frequency tags², known as curfew tags, applied as a requirement on community sentences shows that tag wearers are 20% less likely to reoffend and more likely to comply with other requirements attached to their order.
- b) The impact evaluation of our Acquisitive Crime post-custody pilot³, which placed constant whereabouts monitoring conditions on burglars, robbers, and thieves leaving prison in participating areas, shows that tag wearers are also around 20% less likely to reoffend.
- c) Our Alcohol Monitoring on Licence evaluation⁴ found that around 80% of individuals complied fully with the condition. Of those who didn't, most committed a single act of non-compliance. This adds to evidence gathered on alcohol monitoring when imposed by the court on a community sentence, which shows a compliance rate of 97.3% of days worn since we introduced the technology in October 2020 up to June 2025.

Further studies are also on their way to being published. They are at different stages of collation, analysis, and review but we have publications planned on reoffending rates for GPS tags, as well as further impact studies of Alcohol Monitoring on Licence and our Domestic Abuse Perpetrators on Licence (DAPOL) cohorts. An extension of the 2025 curfew tag reoffending analysis set out above has also started to examine impacts beyond the time on tag, and the forthcoming GPS equivalent evaluation will do the same.

With this significant programme already in train, my priority is to ensure that these studies are completed to the highest standard and fully inform our next steps. Once published, they will expand the robust evidence base from which we can determine new areas for investigation. I will take the Committee's views into account as we determine the new areas for investigation.

Capacity and capability of Probation and Private Contractors

I have separated out these recommendations, and my responses to the Committee, between probation and those which relate to private contractors.

Probation capacity

² Assessing the effectiveness of Radio Frequency Electronic Monitoring - GOV.UK

³ Impact evaluation of the acquisitive crime project: 12 month+ cohort - GOV.UK

⁴ Alcohol monitoring on licence: process and interim impact evaluation - GOV.UK

Committee recommendation: If the expansion to EM is to be successful, the Probation Service must be fully resourced and properly trained. Hiring new staff is vital but ensuring that new and existing staff are fully equipped to manage a new approach to offender management is equally important. We note that the peak time period of EM issues arising (post 7pm) is outside the normal working hours of probation staff. The Government should give some consideration to this in view of the extra demand that will be placed on staff.

Government response: Partially Accept

I totally agree with the Committee that the Probation Service plays a vital role in public protection. The Sentencing Bill, introduced to Parliament on 2 September 2025, implements a wide range of recommendations from the Independent Sentencing Review and includes further reforms designed to strengthen offender management in the community and support a more sustainable prison system. The Review acknowledged that some measures such as the presumption to suspend short sentences and the extension of SSOs, will increase probation caseloads.

To meet the challenges the Probation Service faces, we are implementing a range of measures including investing up to £700 million in the community by 2028/29, which represents a 45% increase. This will deliver the transformative reforms recommended by the Independent Sentencing Review and will mean expanded effective use of tagging, and continued investment in accommodation and community-based supervision.

These measures will help ensure probation staff are equipped to manage a modernised approach to offender supervision, focus their time on assessing and managing risk, and continue to support rehabilitation and protect the public. Importantly, the Sentencing Bill also includes measures aimed at streamlining probation processes. Removing the requirement to apply to court for an extension of time to complete unpaid work and replacing the Rehabilitative Activity Requirement with a more flexible Probation Requirement, are expected to offset some of the additional pressures identified by the Independent Sentencing Review. These sit alongside wider action to implement new technology, such as Justice Transcribe, to reduce admin and free up probation staff capacity to focus on what matters.

We published the first Prison Capacity Annual Statement last year and the next iteration, covering 2025, is due to be published early in 2026. The statement includes information on probation capacity and, crucially, we are also legislating to put the publication of the statement on a statutory footing via the Sentencing Bill so that Governments are duty bound to be as transparent as possible in the future.

Lastly, it is important to clarify how EM operates in practice, in that it provides reliable evidence in retrospect on the tagged individual's behaviour, rather than triggering alerts that require instant action from staff. This means that, while issues may be identified at any time of day (such as after 7pm), the system is designed to gather and present evidence to the responsible officer for their subsequent assessment, rather than to prompt immediate operational response.

Private contractors

Committee recommendation: The Government must continue to closely monitor Serco's performance against its contractual obligations, particularly as the number of people subject to EM increases to a point which might demand infrastructure changes on their part.

Government response: Partially Accept

I share the Committee's view on the importance of ensuring Serco is held to account for fulfilling its contractual obligations. While the performance of Serco has been unacceptable, through my direct ministerial intervention with Serco senior leadership and robust management of the contract, delivery is now improving. We recognise there remains more progress to be made though, and are maintaining robust oversight.

As acknowledged in the Committee's recommendation, stringent arrangements are already in place to monitor the provider's performance and take corrective action where needed. These include regular performance reviews, use of contractual mechanisms such as triggering of service credits or service improvement plan requests to address areas of under-performance, and audit and assurance of Serco reporting through the MoJ's contract management function co-located in Serco's EM operational contact centre. As part of the preparation for the implementation of the Sentencing Bill, we will assess Serco's readiness and in particular any requirements to scale infrastructure in order to manage increased demand for EM.

On 5 January I undertook a series of probation presentations to Members of the House of Lords, during which I set out the latest position on Electronic Monitoring and service performance. I will continue to engage with the Committee on this important matter.

Committee recommendation: The Government should immediately begin a tendering process to expand the number of EM service providers available to it.

Government response: Reject

Our procurement strategy to support new EM service delivery contracts determined that a single-supplier model for field and monitoring services remains the optimum operating model, balancing accountability, and commercial risk in a highly integrated service. As such, I do not accept this recommendation to begin an immediate tendering process. We will, however, keep the operating model under review in light of service needs and market conditions.

Committee recommendation: The MoJ should commission an independent review of EM provision, looking at international best practice, ahead of the next EM procurement round, with a view to operating parallel contracts managed by a fully funded and supported Probation Service.

Government response: Reject

As part of the work I referenced earlier we already have a workstream underway to develop the future procurement strategy. This work will consider market developments in the UK and internationally and will review EM usage and delivery models in other jurisdictions to ensure our approach remains fit for purpose. We will take into account independent views from academics, the market, and others in developing this work further. For this reason, I feel it unnecessary to accept this recommendation.

Ethical considerations

Committee recommendation: The MoJ must investigate whether and why a racial discrepancy widely exists, publish ethnicity data in relation to EM, and publish an action plan on how they will combat this discrepancy.

Government response: Partially Accept

I am absolutely committed to ensuring proportionality and equity in the application of EM, in line with our responsibilities under the Equality Act 2010 and implemented within our own policies and guidance for probation.

I recognise the Committee's reference to concerns highlighted by the Black Equity Organisation (BEO) within written evidence received to your investigation. The BEO highlighted concerns with a specific Mayor's Office for Policing and Crime (MOPAC) pilot, facilitated by the MoJ and London Probation, which has sought to test the effectiveness of adding GPS EM conditions to the licences of prison leavers previously involved in knife crime. The BEO brought to MOPAC and the MoJ's attention potential disproportionality in selecting individuals for the pilot in London and challenged the criteria and design of the MOPAC pilot. Measures falling short and disproportionality occurring within the system is treated with the utmost seriousness.

Those concerns were addressed through an agreed action plan and constructive engagement between the BEO, MOPAC, and the MoJ. This plan included changes to the pilot criteria and broader access to data. I am very grateful to the valuable input that the BEO have provided and think this establishes a useful precedent for how we approach issues of potential disproportionality – to listen, analyse and share as much information as we can. I will consider what more we can do as part of our future evidence work.

More broadly, I am absolutely aware that our vision for the expanded role EM will play at different stages of the criminal justice system requires of us even more careful consideration of any unintended consequences for any group. I can assure the Committee that these considerations are top of our list and a guiding principle in all our policy design. I also recognise that data on ethnicity and other protected characteristics is important and will commit to us seeking to providing more information in the future, in a transparent, quality assured, and reliable format.

Conclusion

As we take forward this programme of work, it remains essential that EM and probation's overall performance is monitored rigorously and continuously. Strong, responsive oversight is important not only to ensuring that our providers meet their contractual obligations, but also to enabling the Probation Service to operate with confidence and precision as EM continues to expand. I want to reassure the Committee that this is an area of active focus for me. I am closely tracking performance, driving improvements, and ensuring that any issues are swiftly identified and met with clear, time bound action plans. This sustained focus will help ensure that both Probation and our contracted partners deliver the high quality, reliable service that the public rightly expects.

Home Office Responses to Recommendations

The Home Office welcomes the report conducted by the Committee and has considered the recommendations specific to the use of EM for immigration purposes. The Home Office notes the Committee's findings and the recommendation contained therein. The Home Office's responses to the recommendations are set out below.

Immigration Bail

Committee recommendation: The Home Office should conduct, as a matter of urgency, a thorough assessment of the proportionality of the statutory duty in relation to the use of EM in

Immigration bail cases. They should publish data on the number of non-FNOs and FNOs (along with crime type). The conclusion should also address directly the Home Office's arguments as to why the use of EM in the context of immigration is proportional.

Government recommendation: Reject

The Home Office notes the Committee's recommendation. However, the Department consider that it is not necessary to conduct such an assessment. The proportionality of EM as a condition of Immigration bail has been subject to independent scrutiny by the Judiciary over the course of 2023 and 2024.

The Upper Tribunal considered the proportionality and necessity of EM in the case of R (on the application of Nelson) v SSHD in which The President (The Hon. Mr Justice Dove) and Vice President (Mr C M G Ockleton) of the Tribunal concluded that:

"We consider that the concession which was made by the respondent that the requirement to wear a GPS tag is an interference with a person's article 8 right was properly made. As the respondent accepted the requirement to wear such a device involves not merely its physical fitting to the person concerned, but also the harvesting of locational data in relation to their movements and whereabouts, and the understandable concern of that person that they are being supervised or watched. The concession is in line with the approach taken in the case of Uzun.

The next question which arises when examining the position in principle is whether the imposition of such a GPS tag is in accordance with the law, that is to say whether the standards of accessibility and foreseeability provided in the authorities are met by the material which is before us. We have reached the conclusion that, in principle, the requirements are met. Firstly, so far as accessibility is concerned it is important to appreciate that in addition to the legislative framework which clearly sets out the powers of the respondent in connection with electronic monitoring conditions, there is also, supplementing these provisions, the detailed policy on immigration bail which the respondent publishes to inform the way in which the powers will be operated. In terms of accessibility and foreseeability the points made by the respondent as to when the legislation provides for electronic monitoring to cease are well made.

The policy also provides important safeguards so as to ensure, in particular through the mandatory regular review process, that a continuing requirement to wear a GPS tag is consistent with the requirements of practicability and the proper protection of the bailed person's human rights. That regular review process also ensures that the factors relevant to whether or not the continued wearing of the GPS tag is purposeful are addressed. Thus, in our judgment the policy plays an important role in ensuring that the operation of an electronic monitoring condition is carried out in accordance with the law bearing in mind, of course, that a policy of this kind cannot foresee or plan for every conceivable eventuality.

Thus, in principle we are satisfied that the inclusion of a requirement to wear a GPS tag as part of an electronic monitoring condition is in accordance with the law and consistent with the purposes of having such a condition in the first place. The final question in relation to article 8 is, of course, one which is highly fact sensitive and dependant upon the particular circumstances of the individual whose case is being considered."

The Judgment of the President and Vice President of the Upper Tier was upheld by Mr Justice Lavender in the High Court when considering the case of R (On the application of ADL and Others) v SSHD.

In the case of ADL & Others, the claimants made similar arguments to those raised by the Committee, namely that:

“(1) There is no evidence of how effective or ineffective EM conditions are in preventing absconding or offending. He prayed in aid the statement in version 2.0 of the Pilot Guidance that the data collected by the 12 month stage of the pilot did not provide sufficient evidence to establish whether the use of electronic monitoring was an effective tool for contact management. (2) The rate of absconding by individuals on immigration bail is low. The information provided in response to certain freedom of information requests was that in 2021 only 2.7% of individuals on immigration bail absconded, while in 2022 the figure was 1.3%. (3) There is evidence that EM conditions have a significant adverse effect on the individuals concerned.”

The claimants concluded that the interference with Article 8 rights through the application of EM was not “necessary in a democratic society”.

Mr Justice Lavender set out that the appropriate test for necessity was established in “the four questions set out by Lord Reed in *Bank Mellat v Her Majesty’s Treasury (No 2)* [2014] AC 700 (“*Bank Mellat*”), namely;

(1) whether the objective of the measure is sufficiently important to justify the limitation of a protected right, (2) whether the measure is rationally connected to the objective, (3) whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective, and (4) whether, balancing the severity of the measure’s effects on the rights of the persons to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter.”

Mr Justice Lavender further stated that “No issue arises in relation to questions (1) and (2)” as the Claimants “accepted that the objectives of preventing absconding and preventing offending were weighty ones which justified limiting a fundamental right and that EM conditions were rationally connected to those objectives.” In respect of questions (3) and (4) Mr Justice Lavender agreed the SSHD’s argument that decisions in respect of questions (3) and (4) “fell to be assessed by reference to the evidence available to the defendant at the time when each decision was taken.”

As a result, the Home Office considers it unnecessary to conduct a review of the proportionality and necessity of the statutory duty. The Upper Tribunal and High Court have respectively completed such assessments and consider the duty lawful and proportionate provided important safeguards are met. The avenue of challenge to the court remains open to service users and provides a vital check and balance against the use of EM for immigration purposes.

Committee recommendation: The Home Office should publish evidence regarding the impact the use of EM has on those on immigration bail. If such research is not available, a study assessing compliance and impact should be conducted as a matter of priority.

Government response: Reject

The Home Office recognises that EM does infringe upon an individual and as a result has put in place important safeguards to mitigate against the impacts of that. This includes the ability for a potential service user to make representations and submit evidence prior to EM being applied as a condition of bail and the need to conduct regular reviews thereafter. Once released, it is open to service users to further submit representations to the Home Office seeking a variation of their

bail conditions. Those representations will be considered and, where appropriate, EM will be ceased.

Between 1 April 2025 and 20 November 2025, there were only 290 such representations lodged, suggesting that in excess of 90% of service users did not consider the impact deleterious. Of the 290 service users who challenged the use of EM, 44 resulted in EM being ceased, 246 resulted in EM being maintained as a condition of bail, and the balance remain subject to consideration. Service users are also able to seek independent review of the application of EM as a condition of bail and the impact of any use of EM resulting through the well-established judicial review process.

As such, we consider that we have sufficient safeguards in place to identify and address any immediate impacts arising as a result of EM. However, we will consider whether a longitudinal review should be undertaken, although this will be in the longer-term given competing priorities faced by the Department.



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