



# Summary: Analysis & Evidence

# Policy Option 1

Description: Do nothing

## FULL ECONOMIC ASSESSMENT

Price Base	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/K	High: N/K	Best Estimate: N/K

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate			

### Description and scale of key monetised costs by 'main affected groups'

There are no additional costs arising from the baseline, 'do nothing' option.

### Other key non-monetised costs by 'main affected groups'

There are no additional costs arising from the baseline, 'do nothing' option.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0	£0	£0

### Description and scale of key monetised benefits by 'main affected groups'

There are no additional benefits arising from the baseline, 'do nothing' option.

### Other key non-monetised benefits by 'main affected groups'

There are no additional benefits arising from the baseline, 'do nothing' option.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: N/K	No	NA
Benefits: N/K		
Net: N/K		

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Introduce the Community Remedy

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/K	High: N/K	Best Estimate: N/K

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	n/k	n/k	n/k
High	n/k	n/k	n/k
Best Estimate	n/k	n/k	n/k

### Description and scale of key monetised costs by 'main affected groups'

It has not been possible to monetise the additional costs associated with implementing Option 2 due to difficulties in predicting the change in volumes of community resolutions and conditional cautions.

### Other key non-monetised costs by 'main affected groups'

There will be one-off transition costs to Police and Crime Commissioners in setting up the consultation process. Costs would fall to the Police and Crime Commissioners in consulting the public on the menu of sanctions available for the community resolution and conditional cautions. There could be additional costs to the police if the introduction of the Community Remedy leads to a greater number of out of court disposals being used.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	n/k	n/k	n/k
High	n/k	n/k	n/k
Best Estimate	n/k	n/k	n/k

### Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to monetise the additional benefits associated with implementing Option 2 as it has not been possible to predict the change in volumes of community resolutions and conditional cautions.

### Other key non-monetised benefits by 'main affected groups'

There could be benefits to victims and communities more widely, from being more involved in the process of punishing perpetrators of low level crime and ASB offenders. Use of restorative sanctions as part of community resolutions and conditional cautions could help to reduce reoffending. There could also be efficiency savings to the police.

**Key assumptions/sensitivities/risks** **Discount rate (%)** 3.5%

Costs and benefits cannot be monetised as current use of the community resolution is not recorded centrally.

## BUSINESS ASSESSMENT (Option 2)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: N/A	Benefits: N/A	Net: N/A	No	NA

# Evidence Base (for summary sheets)

## A. Strategic Overview

### Background

- 1) Currently some police forces use a community resolution to deal with low level crime and anti-social behaviour. This is essentially a common sense approach where the offender agrees to make amends to the victim without the case going through the Criminal Justice System. Typically the informal approach would be used for low-level criminal damage; low value theft; minor assaults (without injury) and anti-social behaviour.<sup>1</sup> There is no statutory basis for community resolutions as it is an informal response. As community resolutions are voluntary (for the victim to accept and offender to participate), if breached there is often no routine follow up by the police.
- 2) When an informal approach is not appropriate, the police and Crown Prosecution Service can use, for example, a conditional caution. These are currently available for summary offences (excluding motoring offences) and a few either way offences such as criminal damage. If it is in the public interest, a caution is administered on the basis that the offender admits guilt and agrees to comply with certain conditions. If the offender accepts the conditions, the police officer will administer the caution. If the offender does not comply with the conditions without reasonable excuse, then he or she may be prosecuted for the original offence. Conditions can be rehabilitative or reparative (a punitive financial penalty is available in some areas following pilots). Reparative conditions can include the payment of compensation to a victim, or to repair any damage caused. The views of the victim are currently sought where possible in deciding whether to offer a conditional caution and the conditions attached to it. However the victim must agree to any reparative conditions.
- 3) Currently there is a lack of consistency between police forces on how they deal with low-level crime and anti-social behaviour. Some forces do not use the community resolution at all and conditional cautions are not used consistently<sup>2</sup>. There is also little transparency for victims, who are not always fully involved in the process for formal and informal out of court disposals.
- 4) Some local communities are able to inform decisions between informal (restorative or non restorative) or formal action through Community Impact Statements which are currently being piloted. A Community Impact Statement is a short document illustrating the concerns and priorities of a specific community over a set time period. The statements will be compiled and owned by the police and be made in the form of a Section 9 witness statement (Criminal Justice Act 1967). A Community Impact Statement is intended to provide relevant and useful additional information about the impact crime and ASB or a particular incident is having on a particular community for all law enforcement officers.
- 5) Conditional cautions require the consent of the offender. In some circumstances, an offender who is offered a conditional caution may not accept it. For this reason, there is a certain degree of uncertainty in the nature of the impacts outlined below.

### Separate Provision

- 6) Provisions in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 remove the requirement for police officers to get authorisation from the CPS to offer conditional cautions. This may

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<sup>1</sup> Evidence from 10 police forces suggest that criminal damage, theft, and actual bodily harm are the offences that the community resolution is most commonly used to deal with.

<sup>2</sup> Anecdotal evidence from police forces

increase the volume of conditional cautions that police forces offer to offenders. However, use of conditional cautions will remain at the discretion of local police forces.

### **Groups Affected**

- 7) The proposals outlined in this Impact Assessment would affect the groups listed below. Not all groups would be impacted by each proposal and in many cases the impact would be positive. More detail is provided later on in this Impact Assessment.
- 8) The following groups would be affected by one or more of our proposals:
  - i) the public;
  - ii) victims and witnesses of low-level crime and anti-social behaviour;
  - iii) perpetrators of low-level crime and anti-social behaviour;
  - iv) the police;
  - v) Her Majesty's Courts and Tribunals Service (HMCTS);
  - vi) Police and Crime Commissioners;
  - vii) the Legal Services Commission (LSC);
  - viii) HM Prisons;
  - ix) National Offender Management Service (NOMS); and
  - x) Crown Prosecution Service.

### **Consultation**

- 9) In assessing the relative impact of these proposals on the organisations listed above, we have consulted widely. Within government we have consulted with HM Treasury; Cabinet Office; Ministry of Justice; Department for Communities and Local Government; HM Courts and Tribunals Service; Crown Prosecution Service and the Attorney General's Office.
- 10) The Community Remedy will be considered as part of pre-legislative scrutiny of the 3rd Session Anti-Social Behaviour Bill. Alongside this, we will run a public consultation to help inform the policy ahead of legislating.

## **B. Rationale**

- 11) The role of newly elected Police and Crime Commissioners (PCCs) is to ensure the policing needs of their communities are met as effectively as possible, bringing communities closer to the police, building confidence in the system and restoring trust. As part of this role, PCCs will ensure the police are accountable to the communities they serve by consulting and involving the public and victims to tackle crime and reoffending<sup>3</sup>. This aspect of the PCC's role is reflected in the government White Paper, 'Swift and Sure Justice' which set out the government's policy to ensure that justice is transparent and accountable to victims and the public<sup>4</sup>.
- 12) The Community Remedy will make justice and policing more accountable to the public by ensuring that PCCs consult the public on the range of out of court sanctions available to tackle low-level crime and anti-social behaviour. Currently there is little transparency for victims, who are not always fully involved in the process for formal and informal out of court disposals. By giving victims a greater say in the sanction offered to the offender (or perpetrator), the Community Remedy will make the process more transparent and help to convince the victim that the sanction is meaningful rather than a token rebuke.

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<sup>3</sup> <http://www.homeoffice.gov.uk/police/police-crime-commissioners/public/what-is-pcc/role/>

<sup>4</sup> Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System, July 2012

- 13) Dealing with low-level crime and anti-social behaviour out of court means victims get justice swiftly (one of the policy aims in the Government White Paper 'Swift and Sure Justice'), and the offender has to face immediate consequences for their actions, which could make them less likely to reoffend in the future. However there is a lack of consistency between police forces on how they deal with low-level crime and anti-social behaviour out of court. Some forces do not use the community resolution at all and conditional cautions are not used consistently<sup>5</sup>. The Community Remedy will ensure consistency for victims by placing a duty on forces to consult victims for their view when it comes to punishing their offenders, therefore ensuring consistency for victims.
- 14) The Community Remedy is consistent with wider police and Criminal Justice System reforms, for example, local accountability through PCCs; reforms to provide more effective and flexible powers to tackle anti-social behaviour; and Ministry of Justice changes to conditional cautions, including enabling the police to administer conditional cautions for some offences without requiring the CPS to authorise the decision and Ministry of Justice reforms of community sentences.

## **C. Objectives**

- 15) The objectives of the Community Remedy are as follows:
- i) to increase transparency for victims and the public;
  - ii) to ensure a consistent approach by police towards victims of low-level crime and anti-social behaviour;
  - iii) to make the police response to low-level crime and ASB more accountable to victims and local communities;
  - iv) to make out of court disposals more effective by putting victims at the heart of the disposal and therefore increase their use; and
  - v) to reduce low-level crime and anti social behaviour.

## **D. Options**

### **Option 1 is to do nothing**

- 16) Under the do nothing option, the law would remain as it currently stands. Some forces would continue to use community resolutions and conditional cautions for low-level crime and anti-social behaviour and some would not. Victims and the public continue to have minimal input on the range of sanctions available to police officers when using out of court disposals.

### **Option 2 is to legislate**

- 17) The Community Remedy will be a menu of sanctions for low-level crime and anti-social behaviour which will be drawn up in consultation with the local community and agreed between the Police and Crime Commissioner and the Chief Constable in a particular force area. This menu would be used when such matters are dealt with out of court. The proposal has three key elements:
- a) PCCs will be required in legislation to consult the public on a range of sanctions to be used in dealing with low-level crime and anti-social behaviour (ASB) out of court in their police force area.

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<sup>5</sup> Anecdotal evidence from Police Forces

- b) Police officers in a particular force area will work from the resulting menu of sanctions when using two types of out of court disposal – informal community resolutions and conditional cautions. These require the offender to accept that they have committed a criminal offence or engaged in ASB, and to accept some form of out sanction out of court, as an alternative to formal criminal proceedings, should an offence have been committed.
- c) The victim will be given a choice of sanctions from the menu; although the police officer in question (or prosecutor in some cases) would still have ultimate responsibility for ensuring that the sanction then offered to the offender was proportionate to the offence.
- 18) What is on the Community Remedy menu in a particular area will depend on the views of victims and public but it could include, for example:
- the offender signing an Acceptable Behaviour Contract – where they agree not to behave anti-socially in the future, or face more formal consequences;
  - participation in structured activities funded by the PCC as part of his or her efforts to prevent crime;
  - mediation – for example, to resolve a neighbour dispute;
  - paying compensation to the victim (for example, for any damage caused);
  - reparation to the victim (for example, repairing damage or scrubbing graffiti off a wall); or
  - reparation to the community (for example, by doing local unpaid work for up to 10 hours).
- 19) The PCC would agree a local menu with the Chief Constable, and they would be responsible for ensuring that it was proportionate, whilst also reflecting the public's views on what constitutes a meaningful sanction. That menu would then be used as part of two out of court disposals, informal community resolutions and conditional cautions. It will be for the police officer to decide which out of court disposal is appropriate.

## **E. Appraisal (Costs and Benefits)**

### **General Assumptions and Data**

- 20) There are limited data available on the current use of the community resolutions, with more data available on the use of conditional cautions. As a result, and in line with Department for Business, Innovation and Skills guidance on the principle of proportionality<sup>6</sup>, it has not been possible to quantify costs and benefits of Option 2. Instead this section provides a description of the costs and benefits of the introduction of the Community Remedy (Option 2) in comparison with the baseline, 'do nothing option'. Where any additional costs or benefits are known, these have been included. Otherwise, impacts have been identified and described in detail.
- 21) Changes to conditional cautions under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 are assumed to form part of the baseline as these will be implemented before Option 2.

### **Option 2: Introduce the Community Remedy**

#### **Transition costs**

- 22) Transition costs as a result of introducing the Community Remedy are expected to be minimal as many police forces are already using both informal community resolutions and conditional cautions. There could be some additional costs for forces not already using the community resolution (such

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<sup>6</sup> Guidance from the Department for Business, Innovation, and Skills sets out that 'the effort applied at each step of completing an Impact Assessment, in particular the estimation of costs and benefits, should be proportionate to the scale of the costs and benefits, outcomes at stake, sensitivity of the proposals, and the time available.' (HM Government, 2011, *Impact Assessment Guidance: When to do an Impact Assessment*)

as Cheshire) or forces where it is not widely used (including the Metropolitan Police Service). These could involve training for relevant officers on how to use community resolutions and the options available as part of the Community Remedy. This would result in opportunity costs for the police. However, police use of community resolutions will continue to be voluntary and if forces are not already using community resolutions for these disposals, these costs will not be relevant. It has not been possible to quantify the costs of any training that might take place as it is likely to vary considerably between forces depending on their current use of these disposals. Any costs will be opportunity costs.

23) There could also be transition costs for Police and Crime Commissioners (PCCs) in setting up consultation processes. This is likely to vary considerably between forces and, as such, accurate costs could not be quantified. As an illustration, if these consultations required 10 hours to read the consultation responses and draw up a menu of sanctions and an hour of chief constable time to agree then the cost would be approximately £450.<sup>7</sup> Therefore these costs are unlikely to be significant.

### Volume

24) Option 2 will require PCCs to consult the public on the menu of sanctions available for use in certain out of court disposals. All 41 PCCs will need to consult on what sanctions their local areas want used when dealing with low level crime and ASB. These menus will then need to be agreed by the Chief Constable of the relevant police force. Once agreed by the Chief Constable, officers will be required to choose from these sanctions when issuing either a community resolution or conditional caution. The introduction of the Community Remedy is unlikely to change the circumstances that determine whether police officers offer offenders and victims these disposals, which makes predicting future use difficult. **Because of the number of unprescribed steps necessary to get to a change in volume, realistic estimates cannot be made. Instead we present costs and benefits resulting from a one per cent change in volumes as a scenario analysis.**

25) The community resolution is not currently used by all police forces and data on its use is not collected centrally. Using data from selected forces, it is estimated that between approximately 150,000 and 200,000 community resolutions were used during 2010/11.<sup>8</sup> As PCCs in 41 forces will now be required to consult on a menu of sanctions, it is possible that this will lead to increasing use of community resolutions as there would be increased awareness among police forces and victims of crime and anti-social behaviour. There is no evidence to support this, so it has not been possible to predict any potential change in volumes. It is possible that volumes could increase, remain unchanged or even decrease. However, given that the introduction of public consultation on the range of sanctions available is likely to increase awareness of the community resolution among victims, communities and police forces, both a decrease or no change in volumes seems less likely than an increase. Table E.1 below explores potential costs for a change in volumes.

26) Volumes of conditional cautions used are available from the Crown Prosecution Service. There were approximately 6,000 conditional cautions used in 2011/12, but this number has been falling in recent years. Although this may be reversed once changes are introduced as part of the Legal Aid, Sentencing, and Punishment of Offenders Act that comes into effect.<sup>9</sup> The introduction of the Community Remedy could potentially increase the number of conditional cautions administered but,

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<sup>7</sup> This is assuming 10 hours of police officer (sergeant and below) time and one hour of chief constable time is required. This is calculated using Home Office estimates of police time. These were calculated using CIPFA (Chartered Institute of Public Finance and Accounts) and ASHE (Annual Survey of Hours and Earnings) data for 2008, figures were then updated to account for inflation using HM Treasury deflator series. While a police officer may not be involved in the process, this unit was felt to be the best available proxy.

<sup>8</sup> Using data released under Freedom of Information for 10 police forces and extrapolation on the basis of population (lower bound) and recorded crime (upper bound).

<sup>9</sup> Due in April 2013. This removes the requirement for police officers to get authorisation from the CPS to offer conditional cautions which could lead to an increase in the volume of conditional cautions issued. As this change will come into effect before the Community Remedy it forms part of the baseline of this policy and so does not affect the additional costs and benefits of Option 2.



again, it is not possible to estimate this and there is the possibility that volumes could remain the same or even decrease. Table E.1 below explores potential costs for a change in volumes.

## Costs

### Unit costs

27) The unit cost of issuing a community resolution involves the following costs:

- cost of police officer's time in issuing the community resolution- this is likely to require up to three hours of one police officer's time costing approximately £110.<sup>10</sup>
- cost of the reparation made by the offender. In the case of remuneration or "making good", this will represent a zero net cost to the victim as the offender is compensating the victim for the original cost.<sup>11</sup> In the case where the offender has to attend a course or program then the cost may fall to the PCC, to be paid from their budgets. This will be realised as an opportunity cost.
- cost of monitoring the resolution to ensure compliance.
- cost of sanctions if the community resolution is not adhered to.

28) The cost of administering a conditional caution involves the following costs:

- cost of police officer's time in issuing the decision to offer a conditional caution and administering it. This is likely to require up to seven hours of one police officer's time costing approximately £260.<sup>12</sup>
- cost of the reparation or rehabilitation activity attached to the caution.
- cost to police of monitoring the conditional caution to ensure compliance.
- cost to CPS, HMCTS, LSC and NOMS if the conditions of the caution are not met and it is decided that the original offence should be prosecuted. These costs will depend on the offence in question.

29) If the introduction of the Community Remedy leads to an increase in the use of the community resolution and conditional cautions then these unit costs above will be relevant. The table below demonstrates the potential scale of costs and cost savings if volumes of community resolutions and conditional cautions increase or decrease by 1 %.

<b>Table E.1: Scenarios to illustrate the costs associated with changes in volumes</b>						
	<b>Lower bound</b>		<b>Upper bound</b>		<b>Best estimate</b>	
	Volume	Cost (£m)	Volume	Cost (£m)	Volume	Cost (£m)
<b>Community resolutions</b>						
1% increase	1500	£0.16	2000	£0.22	1700	£0.19
No change	0	£0.00	0	£0.00	0	£0.00
1% decrease	-1500	-£0.16	-2000	-£0.22	-1700	-£0.19
<b>Conditional cautions</b>						
1% increase	-	-	-	-	60	£0.02
No change	-	-	-	-	0	£0.00
1% decrease	-	-	-	-	60	-£0.02

Note: Negative costs presented in the table are realised as benefits. The costs and benefits in this table will be opportunity in nature.

<sup>10</sup> This is calculated using Home Office estimates of police time. These were calculated using CIPFA (Chartered Institute of Public Finance and Accounts) and ASHE (Annual Survey of Hours and Earnings) data for 2008, figures were then updated to account for inflation using HM Treasury deflator series. While a police officer may not be involved in the process, this unit was felt to be the best available proxy. The estimate of the time required is from anecdotal police evidence.

<sup>11</sup> Typically, the cost to the offender would not be considered.

<sup>12</sup> This is calculated using Home Office estimates of police time. These were calculated using CIPFA (Chartered Institute of Public Finance and Accounts) and ASHE (Annual Survey of Hours and Earnings) data for 2008, figures were then updated to account for inflation using HM Treasury deflator series. While a police officer may not be involved in the process, this unit was felt to be the best available proxy. The estimate of the time required is from anecdotal police evidence.

### Other non-quantified costs

- 30) It is not possible to estimate the additional costs as a result of implementing the Community Remedy as any future change in use of community resolutions or conditional cautions cannot be quantified. In addition to the unit costs set out above, there are the following non-quantified costs to be considered.
- 31) There will be ongoing costs to PCCs of consulting with victims of crime and members of the public in order to determine what sanctions are available as part of the Community Remedy. As legislation will not specify how or how often this is done, the process is likely to vary by police force area. This will be an ongoing cost as at a minimum, a new consultation is likely to take place when each new PCC is elected.
- 32) There will also be ongoing costs of new sanctions available for use as part of community resolutions and conditional cautions. These sanctions could be reparative, rehabilitative or restorative and will depend on the results of the consultation each PCC undertakes. Reparative sanctions involve perpetrators of low-level crime and ASB making financial reparations to cover the cost of any damage done, writing a letter of apology or undertaking unpaid work in the community. In cases involving financial reparations, these will represent a transfer between the perpetrator and the victim. Rehabilitative sanctions could include attendance at a programme to tackle the causes of offending. Costs of these programmes will fall to PCCs and be met from existing PCC budgets. These costs will only be relevant if the volume of community resolutions and conditional cautions used increases or, if additional sanctions are used. As the number of additional community resolutions and conditional cautions used cannot be estimated, or the sanctions anticipated, it has not been possible to quantify these costs.
- 33) The monitoring of community resolutions and conditional cautions used will not change as a result of the introduction of the Community Remedy. If the volume of disposals used remains unchanged, then there will be no additional monitoring costs associated with the Community Remedy. If the volume of disposals increases then there could be some additional monitoring costs to the police to ensure perpetrators are complying with their sanctions. This is likely to form part of local policing responsibilities and to be realised as an opportunity cost.

### Non-quantified benefits

- 34) The Community Remedy will increase transparency around some of the out of court disposals used by police forces to tackle low level crime and anti-social behaviour. There could be benefits to victims of crime as well as wider communities associated with more transparency and accountability in this area, as well as being more involved in deciding how perpetrators should be punished. Criminal Justice Joint Investigation evidence (2012) suggests that *“more could be done to involve victims and communities in the process”* of restorative justice.<sup>13</sup> Where restorative justice is used as part of sanctions attached to community resolutions and conditional cautions these benefits could be relevant. There will be benefits in terms of providing information to victims of crime and communities about progress in tackling those who have committed crimes against them.
- 35) By consulting on the sanctions available for use in community resolutions and conditional cautions, victim satisfaction could be increased as they feel that sanctions are appropriate for the crimes committed.<sup>14</sup> One proxy for this would be how victims rate the Criminal Justice System. Data form

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<sup>13</sup> Criminal Justice Joint Investigation, 2012, Facing Up to Offending: Use of restorative justice in the criminal justice system. A joint thematic inspection by HMIC, HMI Probation, HMI Prisons, and the HMCPSP

<sup>14</sup> Victim satisfaction with out of court disposals is further discussed in the Office for Criminal Justice Reform (2010) paper. This paper suggests that victims are most satisfied with conditional cautions when they were involved in the process and consulted on the use of the conditional caution.

the Crime Survey in England and Wales suggest that only 43 % of the public are confident that the criminal justice system is effective. Requiring PCCs to consult the public on the sanctions (including restorative justice sanctions) available, should help to address concerns that communities' views are not represented and that sanctions are not relevant to the crimes committed.

- 36) There could also be benefits in terms of reduced reoffending as a result of using restorative justice sanctions as part of community resolutions and conditional cautions, to deal with these offences.<sup>15</sup> The report *Exercising Discretion: The Gateway to Justice* (Criminal Justice Joint Inspection, 2011) suggested that restorative justice disposals were more effective at reducing reoffending than charges taken to court. It also found that victims were generally more satisfied with out of court disposals than more formal court measures.<sup>16</sup>
- 37) There are other efficiency benefits from using out of court disposals particularly for the police. The Office for Criminal Justice Reform (OCJR, 2010) suggests that out of court disposals “give police officers a quick and effective means of dealing with less serious offences”.<sup>17</sup> CJI (2011) also identifies savings in terms of police time when using restorative justice as opposed to arresting offenders. Anecdotal evidence from police officers suggests that using a community resolution as opposed to arresting the offender could save as much as 4 hours of police time per case.<sup>18</sup> Returning to the scenario analysis from the costs section, Table E.2 demonstrates the scale of potential benefits from efficiency savings. In order to estimate these, it has been necessary to make the following assumptions- For additional community resolutions issued, it is assumed that under the baseline, do nothing option that no action was taken against these people. For the upper bound, it is assumed that, under the baseline option they were arrested and so there is efficiency savings estimated from police time saved, as fewer police hours are required to issue a community resolution than arrest an individual. This is likely to overestimate the potential efficiency savings and therefore presents the upper bound. These are the two extremes, as there is little evidence to suggest whether any additional use of community resolutions would replace arrests or would be instead of no police action, the best estimate is assumed to be the mid-point of the lower and upper bound.
- 38) The same efficiency savings are unlikely to arise for the conditional caution as individuals offered a conditional caution are arrested as part of the process. As such, no benefits have been estimated here.

<b>Table E.2: Scenarios to illustrate the benefits associated with changes in volumes</b>						
	<b>Lower bound</b>		<b>Upper bound</b>		<b>Best estimate</b>	
	Volume	Benefit (£m)	Volume	Benefit (£m)	Volume	Benefit (£m)
<b>Community resolutions</b>						
1% increase	1500	£0.0	2000	£0.3	1700	£0.1
No change	0	£0.0	0	£0.00	0	£0.0
1% decrease	-1500	£0.2	-2000	£0.2	-1700	£0.2

<sup>15</sup> Shapland *et al* (2008) found that there was a 14 per cent reduction in the frequency of reoffending as part of their research *Does restorative justice affect reconviction?*

<sup>16</sup> Criminal Justice Joint Inspection, 2011, *Exercising Discretion: The Gateway to Justice*

<sup>17</sup> Office for Criminal Justice Reform, 2010, *Initial findings from a review of the use of out-of-court disposals*, Ministry of Justice.

<sup>18</sup> Anecdotal evidence that approximately 4 hours per case could be saved when using a community resolution instead of arresting the offender.

## **Net benefit**

- 39) It has not been possible to estimate the net impact of introducing the Community Remedy. There will be costs associated with consulting the public on the options they want included on the menu of sanctions. It is not known what other costs will be incurred as it has not been possible to estimate the impact that the introduction of the Community Remedy will have on the volume of community resolutions and conditional cautions used. Any increase in the use of either disposal could lead to additional police costs, if they are not already dealing with these incidents. Also, if there is an increase in the use of conditional cautions costs to the Crown Prosecution Service, HM Courts Service, Legal Services Commission and National Offender Management Service could increase if more cautions are not complied with and if the original offences are prosecuted. These costs would only be realised if the conditional caution was used instead of another out of court disposal, and not instead of a prosecution.
- 40) There are likely to be benefits associated with increased victim satisfaction and greater accountability and transparency in the out of court disposals used. Other benefits could include efficiency savings for the police and a positive impact on reoffending if there is wider use of more restorative justice measures as part of these out of court disposals.
- 41) The net benefit from the scenario analysis is presented in Table E.3. This only includes indicative costs and benefits to the police for every one per cent change in the use of community resolutions and conditional cautions.

	<b>Lower bound</b>	<b>Upper bound</b>	<b>Best estimate</b>
<b>Community resolutions</b>			
1% increase	-£0.2	£0.1	-£0.1
No change	£0.0	£0.0	£0.0
1% decrease	£0.4	£0.2	£0.3
<b>Conditional cautions</b>			
1% increase	-	-	-£0.1
No change	-	-	£0.0
1% decrease	-	-	£0.0

Note: figures may not sum due to rounding.

## **F. Risks**

### Option 1: Do nothing.

42) The following risks have been considered under Option 1:

- the status quo remains and there continues to be inconsistent treatment of victims of ASB and low level crime.
- the public do not have enough of a say regards the punishment of offenders and restorative initiatives in their community. There is not enough transparency for victims. There remains inconsistency between police forces on how they deal with low level crime and anti –social behaviour.

## Option 2: Introduce Community Remedy.

43) The following risks have been considered under Option 2:

- the PCC does not consult the public or the PCC and public fail to agree a menu of sanctions.
- the victims don't agree with a sanction from the menu when offered or does not agree that the offence should be dealt with out of court. This is a risk under Option 1 but it could be increased if changes are made to the menu of sanctions on offer.
- the offender does not agree with the sanctions offered. This could lead to little or no increase in the current use of informal and formal out of court disposals. As above, this is a risk under Option 1 but it could be increased if changes are made to the menu of sanctions on offer.
- police (and CPS) do not consider that the sanctions chosen by the victim are proportionate to the offending behaviour and so do not offer them to the offender. This could lead to a decrease in the use of community resolutions and conditional caution which would not lead to an increase victim satisfaction with the use of the out-of-court disposal.
- an increase in conditional cautions may result in police forces incurring additional costs from form monitoring offenders' compliance with the conditions.
- if the number of conditional cautions offered to the offender/s increases, additional offender/s could breach their conditions and potentially be prosecuted for the original offence. This would result in additional costs for HMCTS, the CPS, LSC, and NOMS. As the majority of conditional cautions are complied with, these costs are likely to be small.

## **G. Enforcement**

44) Enforcement of this policy will be by police forces and their PCCs. It has not been possible to draw up detailed enforcement and implementation plans at this stage, but guidance will be issued by the Home Office alongside implementation of the legislation.

## **H. Summary and Recommendations**

45) The table below outlines the costs and benefits of the proposed changes.

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>2</b>	n/k	n/k
	Costs are likely to fall to PCCs in implementing a consultation procedure and providing rehabilitative courses and sanctions. Additional costs could also fall to the police if an increase in the use of community resolutions and conditional cautions requires additional police time to deal with. These costs could not be monetised.	Benefits could not be monetised but include potential increases in victim satisfaction and reductions in reoffending, if restorative sanctions within these disposals are used more often. Other non-monetised benefits could include efficiency savings to the police.

46) We cannot be sure that the policy will result in increased use of community resolutions or conditional cautions; as a result we cannot predict whether the net present value will be positive.

## **I. Implementation**

47) Once the Home Affairs Select Committee has reported on the draft ASB Bill, we will look to legislate as soon as Parliamentary time allows. We would then propose to publish consolidated guidance on the new legislation to help assist with transitional costs and training, including advice on how to use the Community Remedy to ensure reductions in bureaucracy are retained.

## **J. Monitoring and Evaluation**

48) In line with localism, we will encourage local evaluation and publication of data on the use of the Community Remedy. Central data collection would not be appropriate and would add additional burdens onto local areas. By publishing data locally, local communities can hold their agencies to account through their PCC if they feel that issues are not being tackled effectively.

49) We will also monitor the impact of the proposals on all stakeholders on implementation to better understand any associated costs and benefits. In particular, we will monitor the impacts on the justice system. Where additional economic costs are identified, these will be covered through existing arrangements.

## **K. Feedback**

50) As the legislation goes through Parliament and during the process of pre-legislative scrutiny, this will provide an opportunity for external organisations to further scrutinise and provide feedback on the proposals.

## **L. Specific Impact Tests**

51) See Annex 1.

## **Annex 1. Specific Impact Tests**

### **1 Statutory Equality Duties**

- 1.1 Assessment of equality impact formed an integral part of the consultation process through specific equality impact questions, to identify pertinent concerns and issues. Guidance has been followed to ensure that a broad demographic of stakeholders were involved and consulted. An assessment of the equality impacts accompanied the Criminal Justice reform white paper “Swift and Sure Justice” published in summer 2012, which set out commitments in relation to wider out of court disposals and victims and witnesses. We did not identify any evidence that suggests that any of the policies would be directly discriminatory within the meaning of the Equality Act 2010. None of the policy proposals would involve someone being treated less favourably than others because of a protected characteristic, and we did not consider that any of the proposals will be indirectly discriminatory within the meaning of the Equality Act 2010. The proposals will apply to those who share a protected characteristic and those who do not. Our initial assessment of the evidence shows that some proposals may have a differentially positive and/or differentially negative impact on groups or individuals who share certain protected characteristics when compared to those who do not share the protected characteristic
- 1.2 Age, Disability, Gender, Gender Identity, Race, Religion, Sexual Orientation and Socio- Economic indicators are all relevant factors in anti-social behaviour policy and the policy has been developed to bear this in mind. It is to be noted that anti-social behaviour can and does result from harassment based on identity – such as age, gender, gender identity, race, religion and sexual orientation. We have envisaged that these proposals are likely to have positive impacts for victims of such behaviour. This expectation will be explored further as part of the proposed public consultation when we will ask questions about any additional evidence of equality impacts associated with these particular proposals.

### **2 Economic Impacts**

#### Competition Assessment

- 2.1 We do not anticipate any competition impacts as a result of these proposals.

#### Small Firms Impact Test

- 2.2 We do not anticipate any small firms’ impacts as a result of these proposals.

### **3 Environmental Impacts**

#### Greenhouse gas impacts

- 3.1 We do not anticipate any greenhouse gas impacts as a result of these proposals.

#### Wider Environmental Issues

- 3.2 We do not anticipate any environmental impacts as a result of these proposals.

### **4 Social Impacts**

#### Health and Well-being

- 4.1 We do not anticipate any direct health impact from the proposals, although conditions may help individuals to deal with underlying health problems causing their crime or anti-social behaviour.

#### Human Rights

- 4.2 These proposals are compatible with the Human Rights Act 1998.

### Justice

4.3 The justice impacts of these proposals have been outlined in the main body of this Impact Assessment.

### Rural Proofing

4.4 We do not anticipate any specific or different impact in rural areas as a result of these proposals.

## **5 Sustainability**

### Sustainable Development

5.1 These proposals are consistent with the principles of sustainable development.