Title: Introduce the Community Remedy

IA No:

Lead department or agency:
Home Office

Other departments or agencies:
Impact Assessment (IA)

Date: 09/05/2013

Stage: Final Stage

Source of intervention: Domestic

Type of measure: Primary legislation

Contact for enquiries:
Michael Drew 020 7035 1863

Summary: Intervention and Options

Cost of Preferred (or more likely) Option

<table>
<thead>
<tr>
<th>Total Net Present Value</th>
<th>Business Net Present Value</th>
<th>Net cost to business per year (EANCB on 2009 prices)</th>
<th>In scope of One-In, One-Out?</th>
<th>Measure qualifies as</th>
</tr>
</thead>
<tbody>
<tr>
<td>£2.3m</td>
<td>£N/Am</td>
<td>£N/Am</td>
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<td>N/A</td>
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What is the problem under consideration? Why is government intervention necessary?
Currently not all victims feel that their opinion counts when sanctions are administered to offenders who commit low-level crime and anti-social behaviour. Out of court disposals that involve victims are not used consistently across police forces and victims are not always fully involved in the process (for the purposes of this impact assessment, when we refer to 'out of court disposals' we only mean community resolutions and conditional cautions). The process needs to be more transparent, and victims of crime and the wider public need to be convinced that the sanctions are meaningful and appropriate, rather than a token rebuke. Proposals in the Government’s Criminal Justice reform white paper ‘Swift and Sure Justice’. Further legislation is required to ensure Police and Crime Commissioners give victims of low-level crime and anti-social behaviour a say in the sanction offered to the offender as part of a community resolution or conditional caution.

What are the policy objectives and the intended effects?
The central objective is to help Police and Crime Commissioners make the approach to low-level crime and anti-social behaviour in their area more responsive and accountable to victims and the public, with proportionate but meaningful sanctions. Dealing with low-level crime and anti-social behaviour out of court means victims get justice swiftly, and the offender has to face immediate consequences for their actions, which could make them less likely to reoffend in the future. The community remedy should help to ensure that there is a more consistent approach to the consideration given to the views of victims of low-level crime and anti-social behaviour.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
Policy options considered in this impact assessment are:

Option 1: Do nothing (baseline)

Option 2: Introduce the community remedy - require PCCs to consult victims and the public on the menu of sanctions available for those committing low-level crime and anti-social behaviour.

Option 2 is the preferred option; further details are outlined in Sections D and E.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01/2018

Does implementation go beyond minimum EU requirements?
N/A

Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.

<table>
<thead>
<tr>
<th>Micro</th>
<th>Small</th>
<th>Medium</th>
<th>Large</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>No</td>
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<td>No</td>
</tr>
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</table>

What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)
Traded: Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Date: 09/05/13
Summary: Analysis & Evidence

Policy Option 1

**Description:** Introduce the Community Remedy

**FULL ECONOMIC ASSESSMENT**

<table>
<thead>
<tr>
<th>Price Base Year</th>
<th>PV Base Year</th>
<th>Time Period Years</th>
<th>Net Benefit (Present Value (PV)) (£m)</th>
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<tr>
<td>2012</td>
<td>2012</td>
<td>10</td>
<td>Low: -£1.9</td>
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<tr>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Best Estimate: -£2.3</td>
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**COSTS (£m)**

<table>
<thead>
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<th></th>
<th>Total Transition (Constant Price)</th>
<th>Average Annual (excl. Transition) (Constant Price)</th>
<th>Total Cost (Present Value)</th>
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<tr>
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<td>£0.1</td>
<td>£1.9</td>
</tr>
<tr>
<td>High</td>
<td>£1.3</td>
<td>£0.2</td>
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<tr>
<td>Best Estimate</td>
<td>£1.3</td>
<td>£0.1</td>
<td>£2.3</td>
</tr>
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</table>

**Description and scale of key monetised costs by ‘main affected groups’**

We have not been able to monetise all the additional costs associated with implementing Option 2 due to difficulties in predicting the change in volumes of community resolutions and conditional cautions. However, 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.

**Other key non-monetised costs by ’main affected groups’**

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)**

<table>
<thead>
<tr>
<th></th>
<th>Total Transition (Constant Price)</th>
<th>Average Annual (excl. Transition) (Constant Price)</th>
<th>Total Benefit (Present Value)</th>
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</tr>
<tr>
<td>Best Estimate</td>
<td>n/k</td>
<td>n/k</td>
<td>n/k</td>
</tr>
</tbody>
</table>

**Description and scale of key monetised benefits by ‘main affected groups’**

We have not been able to monetise the additional benefits associated with implementing Option 2 as we have not been able 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 1)**

<table>
<thead>
<tr>
<th>Direct impact on business (Equivalent Annual) £m:</th>
<th>In scope of OIOO?</th>
<th>Measure qualifies as</th>
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</thead>
<tbody>
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<tr>
<td>Benefits: N/A</td>
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<td></td>
</tr>
<tr>
<td>Net: N/A</td>
<td></td>
<td></td>
</tr>
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2
Evidence Base (for summary sheets)

A. Strategic Overview

Background

1) Currently some 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. 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) 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. 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.

3) When an informal approach is not appropriate, the police and Crown Prosecution Service can use, for example, a conditional caution. A conditional caution is available for any offence although for adults, offences involving domestic violence or hate crime are excluded from being offered a conditional caution. 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, reparative or punitive (a punitive financial penalty for adults or a financial penalty or unpaid work for youths is available in some areas). 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’s consent must be obtained in any case where direct reparation or restorative justice processes are being considered or where the victim is directly involved in some way.

4) 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. There is also little transparency for victims, who are not always fully involved in the process for formal and informal out of court disposals.

5) 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).

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1 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.
2 http://www.homeoffice.gov.uk/police/police-crime-commissioners/public/what-is-pcc/role/
4 Anecdotal evidence from police forces
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 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 and a prosecutor will still be required to authorise a conditional caution in an indictable only offence.

7) Youth conditional cautions are also now available nationally which is likely to increase the volume of conditional cautions. This will be factored into the baseline of this policy and so will not result in any additional costs or benefits as a result of the community remedy.

Groups Affected

8) The proposals outlined in this impact assessment would affect the groups listed below. More detail on how these groups are affected. 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.

9) 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; and
   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)
   x) Crown Prosecution Service

Consultation

10) The community remedy was considered as part of pre-legislative scrutiny of the draft Anti-Social Behaviour draft bill published in December 2012. Alongside this, a public consultation document - Community Remedy Consultation was launched on the 13 December 2012. The consultation closed on 7th March 2013.

11) There was a good level of public and professional interest with over 600 responses to the consultation. The Home Office Crime and Anti-Social Behaviour unit (CASBRU) hosted a workshop with police officers to discuss the proposals. Overall, the reaction to our proposals has been positive, with many respondents supporting the move towards including victims more in deciding on sanctions for offenders of low level crime and anti-social behaviour.

12) Over 52 per cent of respondents felt the community remedy would help reduce re-offending, with a further 25 per cent stating that they were unsure. The majority of respondents believed that the Community Remedy would improve victim satisfaction with the police response.

13) There were concerns raised in the consultation about creating additional bureaucracy for police officers in administering community resolutions and conditional cautions under the community remedy. These issues will be covered in training and guidance.
14) The Home Affairs Select Committee was also broadly supportive of the aims of the community remedy in their final pre-legislative scrutiny report, published on 15 February 2013.

B. Rationale

15) Anti social behaviour and low level crime affects peoples’ lives on a daily basis; from vandalism and drunkenness on the streets to intimidation and harassment. We know that anti-social behaviour is the local crime and policing issue that matters most to the public. They want the issues dealt with swiftly and for the anti-social behaviour to stop. Tackling anti-social behaviour is a key concern for newly elected Police and Crime Commissioners and was at the heart of many of their election campaigns.

16) Police forces can use out of court disposals, including community resolutions and conditional cautions, to deal with low level crime and anti-social behaviour quickly and effectively. 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. 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.

17) Currently not all police forces use the community resolution as a restorative tool when dealing with anti-social behaviour and low-level crime. This means that not all victims’ voices are heard when such incidents are dealt with. The Government wants to change this, and have committed to significant reform of how anti-social behaviour and low-level crime is dealt with through our draft Anti-social Behaviour Bill, published on 13 December 2012.

C. Objectives

18) The objectives of the community remedy are as follows:

1. to increase transparency for victims and the public;
2. to encourage a consistent approach by police towards victims of low-level crime and anti-social behaviour
3. to make the police response to low-level crime and ASB more accountable to victims and local communities;
4. to make out of court disposals more effective by putting victims at the heart of the disposal and therefore increase their use; and
5. to reduce low-level crime and anti social behaviour.

D. Options

Option 1 is the do nothing option.

19) 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.

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5 Based on Ipsos MORI Home Office public opinion polling.
6 Throughout this impact assessment, reference to out of court disposals refers only to community resolutions and conditional cautions unless otherwise stated.
7 Anecdotal evidence from Police Forces
Option 2 is to legislate to introduce the Community Remedy

20) 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 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 out of court in their police force area.

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 anti-social behaviour, and to accept some form of out of court disposal as an alternative to formal criminal proceedings, should an offence have been committed.

c) The victim will be given a choice of sanction 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 and that the guidance on the individual disposal was followed.

21) 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).

22) The PCC would agree a local menu with the Chief Constable, and 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 or the CPS to decide which out of court disposal is appropriate.

23) The community remedy will make justice and policing more accountable to the public by ensuring that PCCs consult the public on the range of sanctions available to tackle low-level crime and anti-social behaviour. 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 victims feel that sanctions are meaningful rather than a token rebuke.

E. Appraisal (Costs and Benefits)

General Assumptions and Data

24) Although there are some data available on the current use of conditional cautions, there are very limited data available on the current use of the community resolutions. This severely limits our ability to model the potential impacts in terms of volumes affected. The gathering of data to plug this gap

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Where the officer feels that another option, not on the agreed menu, would be a more appropriate response, they retain the discretion to agree this with the victim.
would take considerable resource which we judge to be disproportionate, in line with BIS guidance\(^9\), and is unlikely that historic data on the use of community resolutions could be obtained. We have therefore not been able to fully quantify the costs and benefits of Option 2.

25) 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 quantifiable, these have been included. Otherwise, impacts have been identified and described in detail.

26) Changes to conditional cautions under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 as well as the introduction of youth conditional cautions are assumed to form part of the baseline as these will be implemented before Option 2.

Option 2: Introduce the community remedy

Transition costs

27) Transition costs as a result of introducing the community remedy are expected to be minimal as many police forces are already using both community resolutions and conditional cautions to varying degrees. There could be some additional costs for forces not already using the community resolution (such 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. Training could also involve informing officers of the menu of sanctions available in each force. This would result in opportunity costs for the police.

28) However, as use will continue to be voluntary, if forces not already using community resolutions continue not to use these disposals, these costs will not be relevant. While costs are likely to vary between forces depending on their current use of these disposals, we have attempted to quantify the costs of training for police forces. If the relevant officers, almost 38,000 officers and PCSOs classed as ‘neighbourhood’ officers, in all 43 forces require one hour of training then this is likely to cost approximately £1.3 million.\(^{10}\) These costs will be ‘opportunity’ in nature and are likely to replace other training completed by officers.

Costs

29) 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 and the Mayor’s Office of Crime and Policing will need to consult on what sanctions their local areas want used when dealing with low level crime and anti-social behaviour. These sanctions 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 offering either a community resolution or conditional caution.

30) 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, we expect the process 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 Police and Crime Commissioner is elected, which could be every four years. As consultations are likely to vary between forces, accurate costs are hard to estimate. As an illustration, if we assume that each consultation requires 10 hours of police officer time to read consultation responses and

\(^9\) 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)

\(^{10}\) Police unit costs are calculated using data from the Annual Survey of Hours and Earnings (ASHE) and the Chartered Institute of Public Finance and Accounting (CIPFA). These are 2011/12 prices.
draw up a menu of sanctions and one hour of chief constable time to agree then the cost would be approximately £450 per consultation per force or approximately £19,000 for all forces.\footnote{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. While a police officer may not be involved in the process, this unit was felt to be the best available proxy.}

31) The costs of putting together and running a survey is likely to vary from being low (using free survey tools available on the internet for small surveys), to adding questions to existing surveys (likely to incur a small additional cost), to setting up a new survey for the force. Estimates of other local surveys suggest that running a new internet survey could cost police forces approximately £5,000 per survey\footnote{This figure is based on Home Office estimates of the anticipated cost of running local police surveys using different survey methodologies. Figures are approximate and based on limited evidence from selected forces.}. Using this cost as the best estimate, the total costs would be £5,500 (\(5,000 + 450\) rounded up) for each consultation or £0.2 million for all forces. We have assumed that the cost of publicising surveys is negligible as it is likely to involve posting details on the police force’s website. The actual cost of the consultation process could be higher or lower depending on the method of consultation chosen by the PCC.

32) If this occurs every four years (after each PCC election) then the present value cost over ten years will be £0.6 million\footnote{Discounted using the HM Treasury Green Book rate of 3.5 per cent.}. If this occurs every year then the present value cost will be up to £2.0 million. We assume that the best estimate will be the mid-point of the upper and lower bounds with a consultation process running every two years, at £1.0 million (present value)\footnote{Note, the mid-point here refers to the frequency of the surveys and not the present value costs. The best estimate reflects a consultation process being completed every two years as the mid-point between every year and every four years.}.

Volumes
33) The introduction of the community remedy is unlikely to change the circumstances that determine whether police officers offer offenders and victims these disposals, meaning that future volumes are unlikely to be significantly affected by the introduction of Option 2. This makes predicting future use difficult. The remedy is also unlikely to affect the number of prosecutions for low level criminal offences as the CPS will continue to decide whether or not to prosecute these offences. The remedy is expected to improve victim satisfaction with how the police deal with low level crime and anti-social behaviour as the community remedy will encourage consistency in the use of certain out of court disposals.

34) While we do not expect large changes in the volumes of community resolutions and conditional cautions administered there is a possibility that victims, in particular, could be more likely to agree to the use of these disposals if they feel more involved in the process through consultation. This could lead to small changes in the volumes of disposals administered by police forces. Because of the number of assumptions necessary to get to a change in volume of out of court disposals and the extremely wide range of plausible outcomes, useful estimates of future volumes cannot be made. Instead we present the costs and benefits likely to result from each one per cent change in volumes as a scenario analysis to illustrate potential costs and benefits if volumes do change.

35) The \textit{community resolution} is not currently used by all police forces, and data on its use is not collected centrally. Using data from selected forces, we estimate that between approximately 150,000 and 200,000 community resolutions were used in England and Wales during 2010/11.\footnote{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).} As PCCs will now be required to consult on a menu of sanctions use of community resolutions could increase as this could lead to increased awareness of the community resolution among police forces and victims of crime and anti-social behaviour. Unfortunately, there is no evidence to support this hypothesis, or to inform the estimation of the potential scale of any resultant change. Volumes could
increase, remain unchanged or even decrease if police officers see the disposal as more bureaucratic. 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 and no change in volumes seems less likely than an increase. Table E.1 below explores potential costs for a change in volumes.

36) Volumes of conditional cautions used are available from the Crown Prosecution Service. There were approximately 4,100 conditional cautions used in the year to September 2012\(^{16}\). This number has been falling in recent years but recent changes including the changes introduced as part of the Legal Aid, Sentencing, and Punishment of Offenders Act comes and the introduction of youth conditional cautions, could reverse this trend.\(^{17}\) This will be factored into the baseline of this policy and so will not result in any additional costs or benefits as a result of the community remedy. The introduction of the community remedy could potentially increase the number of conditional cautions administered but, again, we cannot estimate this and there is the possibility that volumes could remain the same or even decrease if police officers see the disposal as more bureaucratic. Table E.1 below explores potential costs for a change in volumes.

Unit costs
37) We estimate the unit cost of issuing a community resolution to be approximately £100 and involve up to three hours\(^{18}\) of one police officer’s time.\(^{19}\)

38) The cost of administering a conditional caution is estimated to require up to seven hours\(^{20}\) of police time costing approximately £260.

39) 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 resulting from every one per cent change in volumes of community resolutions and conditional cautions. Where volumes decrease, we assume that either these individuals will be arrested (lower bound) or no action will be taken against them (upper bound).

| Table E.1: Scenarios to illustrate the costs associated with changes in volumes |
|-------------------------------------------------|-----------------|----------------|----------------|
| | Lower bound | Upper bound | Best estimate |
| | Volume | Cost (£m) | Volume | Cost (£m) | Volume | Cost (£m) |
| Community resolutions | | | | | | |
| 1% increase | 1,500 | £0.15 | 2,000 | £0.20 | 1,700 | £0.17 |
| No change | 0 | £0.00 | 0 | £0.00 | 0 | £0.00 |
| 1% decrease | -1,500 | -£0.15 | -2,000 | -£0.20 | -1,700 | -£0.17 |
| Conditional cautions | | | | | | |
| 1% increase | - | - | - | - | 41 | £0.01 |
| No change | - | - | - | - | 0 | £0.00 |
| 1% decrease | - | - | - | - | 41 | -£0.01 |

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

\(^{16}\) Data provided by the Ministry of Justice on the number of conditional cautions. Data originally from the Crown Prosecution Service.

\(^{17}\) 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.

\(^{18}\) Based on anecdotal evidence from police officers.

\(^{19}\) Based on anecdotal evidence from police officers.

\(^{20}\) Based on anecdotal evidence from police officers.
Other non-quantified costs

40) There will be ongoing costs of any additional 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 anti-social behaviour 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. Restorative sanctions could also involve transfers between the perpetrator and the victim. Rehabilitative sanctions could include attendance at a programme to tackle the causes of offending. Costs of these programmes may fall to PCCs and be met from existing budgets, although the cost could be passed on to the offender if he or she agrees.

41) 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, we are not able to quantify these costs. Currently, the majority of conditions attached to conditional cautions are reparative.21 We do not know what types of sanctions are currently used with community resolutions as data on this is not collected centrally.

42) If the introduction of the community remedy leads to additional conditional cautions being administered there could be additional costs to HM Courts and Tribunal Service, the CPS, the Legal Services Commission, Youth Offending Teams, and the National Offender Management Service. These costs would only be incurred if additional conditional cautions were not met and if the CPS decides to prosecute the original offence. As we cannot predict future volumes of conditional cautions, we have not been able to estimate these costs.

43) 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. If the volume of disposals used remains unchanged then there will be no additional monitoring costs associated with the community remedy. This is likely to form part of local policing responsibilities and so be realised as an opportunity cost.

Non-quantified benefits

44) Victim satisfaction: The report Exercising Discretion: The Gateway to Justice (Criminal Justice Joint Inspection, 2011) found that victims were generally more satisfied with out of court disposals than more formal court measures. Additionally, by consulting on the sanctions available for use in community resolutions and conditional cautions, victims' satisfaction could be increased as they feel that sanctions are appropriate for the crimes committed. One proxy for this would be how victims rate the Criminal Justice System. Data from the Crime Survey in England and Wales suggest that only 43 per cent 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.

45) Public satisfaction: 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, and wider communities, associated with more transparency and accountability in this area, and resulting from victims being more involved in deciding how perpetrators should be punished. CJJI evidence (2012) suggests that "more could be done to involve

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21 80 per cent of conditions attached to conditional cautions in between 2009/10 and 2011/12 were reparative. This includes use of restorative justice, compensation, and a letter of apology. Taken from statistics on the Crown Prosecution Service website.
victims and communities in the process” of restorative justice. 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.

46) **CJS/Enforcement Savings:** There are other efficiency benefits from using out of court disposals particularly for the police. The Office for Criminal Justice Reform (OCJRR, 2010) suggests that out of court disposals “give police officers a quick and effective means of dealing with less serious offences”. CJJJ (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 four hours of police time per case saving approximately £135.

47) Returning to the scenario analysis from the costs section, Table E.2 demonstrates the scale of potential benefits resulting from efficiency savings if additional community resolutions are administered. In order to estimate these, we need to make some assumptions about the do nothing option addressing how these individuals would have been dealt with.
- For the **lower bound,** we assume that under the baseline option no action was taken against these individuals receiving additional community resolutions under Option 2.
- For the **upper bound,** we assume that those receiving additional community resolutions were previously arrested by police officers.

48) Efficiency savings are generated wherever additional community resolutions are issued in place of arresting the offender as fewer police hours are required to issue a community resolution than arrest an individual. As there is little evidence to suggest whether additional community resolutions would replace arrests or would be instead of no police action, we assume that the best estimate is the mid-point of the lower and upper bound, as shown in Table E.2. Savings are between £0.0 million for the lower bound where no efficiency savings are assumed to occur and £0.3 million for the upper bound where there are savings resulting from using a community resolution in place of an arrest.

49) 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. We do not assume that there will be any fewer prosecutions even if the volume of conditional cautions increases. As such, we estimate no quantifiable benefits resulting from any increase in the volume of conditional cautions.

| Table E.2: Scenarios to illustrate the benefits associated with changes in volumes |
|---------------------------------------------|-----------------|-----------------|-----------------|-----------------|
|                                             | Lower bound     |                 |                 |                 |
|                                             | Volume          | Benefit (£m)    | Volume          | Benefit (£m)    | Volume          | Benefit (£m)    |
| Community resolutions                       |                 |                 |                 |                 |
| 1% increase                                 | 1,500           | £0.0            | 2,000           | £0.5³          | 1,700           | £0.2            |
| No change                                   | 0               | £0.0            | 0               | £0.0           | 0               | £0.0            |
| 1% decrease                                 | -1,500          | £0.0            | -2,000          | -£0.5³         | -1,700          | -£0.2           |

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22 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 HMCSPI
24 Anecdotal evidence that approximately 4 hours per case could be saved when using a community resolution instead of arresting the offender.
25 This means there are no efficiency savings if additional community resolutions are issued, but there are police time savings if fewer community resolutions are issued.
26 This will generate efficiency savings if additional community resolutions are issued as police time will be saved in not arresting offenders. However, if fewer community resolutions are issued then additional costs are assumed to be incurred as offenders are arrested instead.
a) Note: outputs have been rounded to one decimal place. To avoid double counting the costs, this is calculated assuming 7 hours of police time is the saving, as this is how long the arrest is assumed to take (this is the 4 hours of saving from using a community resolution rather than an arrest + 3 hours it takes to issue a community resolution).

b) This reflects the additional costs of arresting the individuals who are no longer dealt with using a community resolution.

Net benefit

50) We have identified a number of costs of introducing the community remedy but we have not been able to estimate all the costs or many of the benefits. There will be transition costs to police forces of providing revised training for relevant officers, which we estimate to be approximately £1.3 million. There will also be costs associated with consulting the public on the options they want included on the menu of sanctions. This could cost between £0.6 and £2.0 million (present value), with a best estimate of £1.0 million.

51) However, we cannot estimate what other costs will be incurred. 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 CPS, HMCTS, Legal Services Commission (LSC), Youth Offending Teams (YOTs), and the National Offender Management Service (NOMS) 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.

52) There could 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.

53) 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 percentage point change in the use of community resolutions and conditional cautions.

<table>
<thead>
<tr>
<th>Table E.3: Scenarios to illustrate the net benefits associated with changes in volumes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community resolutions</td>
</tr>
<tr>
<td>1% increase</td>
</tr>
<tr>
<td>No change</td>
</tr>
<tr>
<td>1% decrease</td>
</tr>
<tr>
<td>Conditional cautions</td>
</tr>
<tr>
<td>1% increase</td>
</tr>
<tr>
<td>No change</td>
</tr>
<tr>
<td>1% decrease</td>
</tr>
</tbody>
</table>

54) Table E.3 demonstrates that, for an increase in the volume of community resolutions, the quantifiable estimates suggest a net benefit of £0.06 million per year for every one per cent increase because the potential savings in arrest costs outweighs the additional police time involved. For conditional cautions, the quantifiable estimates suggest a net cost of £0.01 million per year for every one per cent increase in use because of the additional police time involved. However, as the central objectives of the community remedy are not to affect the volumes of community resolutions or conditional cautions used but to improve consistency and victim satisfaction, which have not been quantified, it is possible that the true net present value is positive.

One-In-Two-Out (OITO)

55) These proposals have no business impact.

F. Risks
Option 1: Do nothing.

56) 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.

57) The following risks have been considered under Option 2.

- The PCC does not consult the public or the PCC and public fail to agree on developing 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 the offender being prosecuted instead and 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 offenders increases, additional offenders could breach their conditions and potentially be prosecuted for the original offence. This would result in additional costs for HMCTS, the CPS, LSC, YOTs and NOMS. As the majority of conditional cautions are complied with, these costs are likely to be small.
- Limited community participation in the consultation process does not identify sufficient options to make the menu meaningful. However, this is mitigated against by allowing the PCC to agree a final list with the Chief Constable to ensure it contains appropriate and proportionate options. Ultimately, a constable can also identify an option not on the menu if they believe it to be the correct course of action.

G. Enforcement

58) 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

59) The table below outlines the costs and benefits of the proposed changes.
Table H.1 Costs and Benefits

<table>
<thead>
<tr>
<th>Option</th>
<th>Costs</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>£2.3 (PV, 10 years)</td>
<td>Costs are likely to fall to PCCs in implementing a consultation procedure and providing rehabilitative courses and sanctions and police officer training costs. 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.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>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.</td>
</tr>
</tbody>
</table>

60) 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. In fact, as the objectives of the community remedy are not to affect volumes but to improve transparency for victims, and make the police response to low-level crime and anti-social behaviour more accountable and consistent, none of which can be quantified, the net present value could still be positive.

I. Implementation

61) Now that the Home Affairs Select Committee has reported on the draft ASB Bill, we will look to legislate as soon as parliamentary time allows. We will then 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

62) 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 Police and Crime Commissioner if they feel that issues aren’t being tackled effectively.

63) 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

64) 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
1 Statutory Equality Duties

1.1 Assessment of equality impact formed an integral part of the consultation process, including 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. It is envisage that these proposals area likely to have positive impacts for victims of such behaviour and 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.