Title: Reform of the anti-social behaviour toolkit – Criminal Behaviour Order, Injunction to prevent nuisance and annoyance and Dispersal Powers

Impact Assessment (IA)

Date: 09/05/2013
Stage: Final Stage
Source of intervention: Domestic
Type of measure: Primary legislation
Contact for enquiries: Tony Thomas 020 7035 8161

Summary: Intervention and Options

<table>
<thead>
<tr>
<th>Cost of Preferred (or more likely) Option</th>
<th>RPC Opinion: RPC Opinion Status</th>
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</thead>
<tbody>
<tr>
<td>Total Net Present Value</td>
<td>N/A</td>
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<tr>
<td>Business Net Present Value</td>
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<td>Net cost to business per year (EANCB on 2009 prices)</td>
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</tr>
<tr>
<td>In scope of One-In, One-Out?</td>
<td>Measure qualifies as</td>
</tr>
<tr>
<td></td>
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</tr>
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</table>

What is the problem under consideration? Why is Government intervention necessary?

The police recorded 2.3 million incidents of anti-social behaviour in the year ending December 2012, with many more reported to other agencies such as social landlords and local authorities. According to an Ipsos MORI survey in 2010, ASB ranks as the public’s highest priority when it comes to tackling crime and disorder in their area. The Home Office review of ASB powers (2010) found that the problems with the current system to tackle ASB are that it is too centralist, does not engage the community sufficiently in tackling problems, and that the current toolkit is too complex and bureaucratic with too many separate tools. Government intervention is required to improve the ASB powers to empower practitioners to tackle ASB more effectively in their communities and to give communities greater power to hold agencies to account.

What are the policy objectives and the intended effects?

The objectives are to simplify the current framework of tools and powers, shifting the emphasis from a specific power for every issue, to giving professionals the means to respond flexibly to a range of ASB problems. We are also aiming to reduce the bureaucracy and cost attached to the formal powers (i.e. powers which aren’t voluntary). In meeting these objectives, the effect of the policy proposals is to create the conditions for a more effective local response to ASB and improved the quality of service to the public. Our aim is also to develop more effective powers which will deter the minority of persistent ASB perpetrators. The policy proposals will also lead to simplified and less bureaucratic powers to tackle ASB.

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: Implement these proposed amendments to the anti-social behaviour tools and powers through the introduction of:
   a) Criminal Behaviour Orders;
   b) Injunction to prevent nuisance and annoyances; and
   c) Dispersal powers.
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

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: [Signature] Date: 09/05/13
Summary: Analysis & Evidence

Policy Option 2

Description: Implement proposed amendments to the anti-social behaviour tools and powers.

FULL ECONOMIC ASSESSMENT

<table>
<thead>
<tr>
<th>Price Base Year</th>
<th>PV Base Year 2011</th>
<th>Time Period Years 10</th>
<th>Net Benefit (Present Value (PV)) (£m)</th>
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<td></td>
<td></td>
<td></td>
<td>Low: -£32.7</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>High: £20.3</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Best Estimate: £2.3</td>
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</table>

COSTS (£m)

<table>
<thead>
<tr>
<th></th>
<th>Total Transition (Constant Price)</th>
<th>Average Annual (excl. Transition) (Constant Price)</th>
<th>Total Cost (Present Value)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>Optional</td>
<td>£0.1</td>
<td>£0.6</td>
</tr>
<tr>
<td>High</td>
<td>Optional</td>
<td>£4.6</td>
<td>£39.3</td>
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<tr>
<td>Best Estimate</td>
<td>n/k</td>
<td>£1.1</td>
<td>£8.9</td>
</tr>
</tbody>
</table>

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

The majority of costs are as a result of introducing the Injunction to prevent nuisance and annoyance. The best estimate involves additional monetised costs to Her Majesty’s Court Service (£0.2m annually), police forces (£0.1m annually) and ASB practitioners (£0.7m annually) resulting from the higher breach rate anticipated for the injunction to prevent nuisance and annoyance compared to the Anti-Social Behaviour Injunction (though lower than the stand-alone ASBO). We have not been able to monetise all costs, and given uncertainties around forecasted volumes costs could be higher, falling mainly to HMCTS and ASB practitioners, captured in sensitivity analysis in Section E. Costs identified may be opportunity in nature.

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

The cost of any positive requirements included in the proposed orders has not been quantified. This could result in additional costs, including to probation services, but this will be agreed as part of the preparations for applying for the order and be financed locally (e.g. by the local authority). We have not been able to quantify the cost of appeals or monitoring orders but our best estimate is that this will not represent a change from the baseline and so no additional cost is estimated. Costs to HM Prisons and probation could not be fully quantified as data were not available for disposals of an ASBI breach. Any increase in orders is likely to lead to additional costs to the Criminal Justice System and the Crown Prosecution Service.

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>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>Optional</td>
<td>£0.3</td>
<td>£2.7</td>
</tr>
<tr>
<td>High</td>
<td>Optional</td>
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<tr>
<td>Best Estimate</td>
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<td>£1.3</td>
<td>£11.2</td>
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</table>

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

Benefits generated are savings from streamlined powers, with less duplication and so fewer orders issued. A greater role for the County Court in this option generated most of the LSC and CPS savings. We estimate that the potential annual savings generated will fall to CPS (£0.5m) and LSC (£0.7m). However, new powers for Local Authorities may result in an increase in CBOs and, while this could not be quantified, the additional work generated could offset savings elsewhere. Benefits identified are not necessarily cashable.

Other key non-monetised benefits by ‘main affected groups’

Additional benefits may be generated by the inclusion of more positive requirements in the proposed orders, which could act to decrease breach rates and prevent future reoffending (risks around this have been addressed through sensitivity analysis and could have downstream impacts on the CJS). However, it has not been possible to estimate the likely extent, if any, of any potential reduction and hence it has not been possible to quantify this impact. There are also likely to be benefits to victims and communities in a speedier response, as for example, the new Injunction to prevent nuisance and annoyance will be faster to get than the stand-alone ASBO as a

Key assumptions/sensitivities/risks

Discount rate | 3.5

We assume that there will be minimal net widening of the volume of orders issued in the best estimate scenario as new orders are targeting the same client group. Breach rates for current orders are assumed to be the nearest approximation of the breach rates for the proposed orders. Sensitivity analysis has been conducted to try to account for uncertainties surrounding this, and other, assumptions. Unit costs provided for each type of order are best estimates based on available data and practitioner advice, but time required to issue orders and prosecute for breaches can vary considerably.

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>
</tr>
</thead>
<tbody>
<tr>
<td>Costs: N/A</td>
<td>No</td>
<td>NA</td>
</tr>
<tr>
<td>Benefits: N/A</td>
<td></td>
<td></td>
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<tr>
<td>Net: N/A</td>
<td></td>
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</tbody>
</table>
Evidence Base (for summary sheets)

A. Strategic Overview

Background

1) The term ‘anti-social behaviour’ describes the everyday nuisance, disorder and crime that has a huge impact on victims’ quality of life, but has not always been prioritised by the police and other agencies.

2) Much of what is described as anti-social behaviour is criminal (e.g. vandalism, graffiti, street drug dealing and people being drunk or rowdy in public), but legislation also provides a range of civil powers, such as the Anti-social Behaviour Order (ASBO) and the Anti-social Behaviour Injunction (ASBI). These offer an alternative to criminal prosecution and give the police and other agencies the ability to deal with the cumulative impact of an individual’s behaviour, rather than focus on a specific offence.

3) Since the introduction of the Anti-social Behaviour Order (ASBO) in 1998, the range of powers available to front line professionals to deal with anti-social behaviour has grown substantially, through more than ten separate pieces of legislation. Despite this, anti-social behaviour is still a significant problem. The police recorded 2.3 million incidents of anti-social behaviour in the year ending December 2012, with many incidents reported to other agencies or not reported at all.

Affected Stakeholder groups, Organisations and Sectors

4) Anti-social behaviour consistently ranks as the public’s highest priority when it comes to tackling crime and disorder in their area and it is also a key driver of public confidence in the police and local authorities. So improving the powers available to police and others to tackle anti-social behaviour is likely to have an impact on victims and communities across the country.

5) The following individuals/sectors are likely to be affected by the proposals.

   i) **Victims**: Communities and victims of anti-social behaviour will be provided with better protection from harm if the powers for dealing with anti-social behaviour are improved.

   ii) **Police**: Feedback from the police is that they tend to use the ASBO on conviction more than the ASBO on application, so impacts on the police should be minimal, as the new criminal behaviour order has a similar application process to the ASBO on conviction. The dispersal powers should reduce burdens on the police by removing the requirement to gather evidence and consult with the local authority to set up a ‘dispersal zone’ before using the power.

   iii) **Local authorities**: The main impacts for local authorities would be in moving from dealing with ASBOs on application and instead working in the County Court and the Youth Court on the injunction to prevent nuisance and annoyances. The court may make a Criminal Behaviour Order against an offender only on application of the prosecutor. In most cases this will be the CPS, but it could be a local authority if it is prosecuting a case. In addition, there would be a reduction in the burden on local authorities as they would no longer be involved in agreeing ‘dispersal zones’.

   iv) **Registered providers of social housing**: There is unlikely to be an impact given social landlords already use the Anti-social Behaviour Injunction so there would be limited change for them as the injunction to prevent nuisance and annoyance has a similar application process to the ASBI.

   v) **Youth Offending Teams**: Any additional work for Youth Offending Teams would depend on whether volumes of orders on young people increased. The only formal requirement would be for the Youth Offending Team (YOT) to be consulted if the order is on someone under 18,

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1 Crime in England and Wales, Quarterly Release, December 2012
2 Ipsos MORI Home Office public opinion polling
3 Research by Myhill and Beak (2008) found that people are more likely to be confident if they perceive low levels of ASB in their neighbourhood and if they believe there is less crime than in recent years. BCS 2008/09 data found that respondents who perceived there to be less crime in the local area than two years previously were more likely to agree that the police and local councils were dealing with crime and ASB issues that matter in the area.
though the prosecutor should be made aware of, and take into account, the views of other agencies if raised.

vi) **Her Majesty’s Courts and Tribunals Service (HMCTS):** There would be a reduction in cases heard in the Magistrates’ Court due to the removal of the stand-alone ASBO but an increase in cases in the County Court and the Youth Court due to the broadening out of who could apply for injunctions. Impacts on fee income and court costs have been addressed in section E.

vii) **Crown Prosecution Service (CPS):** Our best estimate is that these changes will lead to a net saving for the CPS as, on the basis of current trends and data, the volume of orders issued is likely to continue to decrease. The CPS would not prosecute breach of the Injunction to prevent nuisance and annoyance as it would be contempt of court rather than a criminal offence. However, there are a number of risks surrounding these assumptions which could mean that the number of cases that fall to the CPS could increase. This could mean that proposals are cost neutral for the CPS. These risks will be discussed in section E.

viii) **National Offender Management Service (NOMS):** The addition of positive requirements may increase work for probation, but only if local funding were provided (as the court cannot order requirements which are not available and funded locally).

ix) **Legal Services Commission (LSC):** We estimate that legal aid costs will reduce as volumes of orders (and any resulting breaches) are likely to follow current trends or reduce. In addition, legal aid costs for anti-social behaviour cases are lower in the County Court than in the Magistrates’ or Crown Courts. We have carried out sensitivity analysis in case volumes of applications increase in relation to current trends.

x) **Prison Service:** The removal of the ASBO on application should reduce pressure on prison places, as the replacement would have a lower maximum sentence on breach (two years rather than five years).

6) In assessing the relative impact of these proposals on the organisations listed above, we have consulted widely. Within Government with Department of Health, HM Treasury, Department for Transport, Department for Education, Department for Environment, Food and Rural Affairs, 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.

**Public Consultation**

7) The consultation document, ‘Putting Victims First: More Effective Responses to Anti-social Behaviour’, was launched on 7 February 2011. It set out proposals to reform the current formal powers for tackling anti-social behaviour, to ensure that the police and their partners can act more quickly and effectively to protect the public. The reaction to our proposals has been positive, with many practitioners supporting our aim of simplifying the current system as well as trying to address underlying causes of anti-social behaviour through support measures and positive requirements. In addition, the Home Office Crime and Anti-Social Behaviour Unit also hosted 14 half day workshops in 7 cities across England and Wales discussing the proposals with over 600 practitioners from local authorities, social landlords, and the police. The response to this consultation was published in May 2012 as the White Paper Putting victims first. Further details of stakeholder responses are set out in the previous impact assessment that accompanied the draft bill.

8) In addition to the 2011 public consultation, further views and advice have been sought during the pre-legislative scrutiny period. The ASB team at the Home Office have consulted with the police and practitioners to fully understand the impact of these proposals and worked with stakeholders to ensure that the proposals are as effective as possible.

9) On December 13 2012, the draft Anti-Social Behaviour Bill was published so that it could undergo pre-legislative scrutiny by the Home Affairs Select Committee (HASC). This provided an opportunity for all those affected by the changes, from frontline professionals to victims and businesses, to comment on the detailed clauses. Over 200 pages of evidence were submitted to the Committee and a number of oral evidence sessions were also held. The HASC published their final report on 15

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February. The report was broadly supportive of the ASB reforms, but it made a number of recommended changes to the draft legislation. The key recommendations are summarised below.

i) We have accepted the HASC recommendation to limit the length of the injunction to prevent nuisance and annoyance to 12 months for under 18s. This change has been incorporated into our assessment of the costs and benefits modelled in Section E.

ii) The HASC also recommended the inclusion of a proportionality test and a requirement of either “intent” or “recklessness” in the legal test for obtaining an injunction. The Government rejected this recommendation on the basis that the “nuisance and annoyance” test for ASB Injunctions is well-established in case law and practitioners are familiar with it.

iii) On the dispersal power, the HASC recommended that there should be a duty to consult local authorities when the dispersal power is used for a period of longer than six hours. We rejected this recommendation but considered the need to include additional safeguards, and have included the requirement that prior authorisation must be given by an inspector.

B. Rationale

10) Anti-social behaviour is still the local crime and policing issue that matters most to the public. The Crime Survey for England and Wales in the year ending June 2012 shows that 15 per cent of people perceive high levels of anti-social behaviour in their area, although this has decreased slightly in recent years.

11) Civil powers to tackle anti-social behaviour were intended to prevent the kind of sustained harassment visible in some high-profile cases such as that of Fiona Pilkington, and give the police an alternative to criminal prosecution where it was difficult to prove that an offence had been committed or where victims were afraid to give evidence. However, victims and practitioners have told us that many of the formal powers currently available are bureaucratic, slow and expensive.

12) In addition, high breach rates mean that ASBOs are not always effective in tackling anti-social behaviour. The latest statistics show that the cumulative breach rate for ASBOs is high with 57 per cent having been breached at least once and 43 per cent had been breached more than once. This is despite the fact that more than half of offenders proved to have breached their order receive an immediate custodial sentence.

13) Practitioners have told us what works in tackling anti-social behaviour. They know that a balanced response, incorporating elements of both enforcement and prevention is essential, especially for perpetrators with complex needs. High-end, formal interventions such as ASBOs are more likely to succeed when they are combined with support services aimed at addressing the underlying causes of anti-social behaviour.

14) Research commissioned by the Home Office identified two key types of perpetrator:

i) those whose anti-social behaviour was ‘transitional’, committed when the individual was adapting to a specific life change (e.g. adolescence, moving out of the family home, following a divorce etc); and

ii) those whose behaviour was persistent and ‘entrenched’, partly as a result of underlying factors such as substance abuse, mental health issues or a dysfunctional family background.

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6 Based on Ipsos MORI Home Office public opinion polling.
7 Office for National Statistics (ONS), Crime in England and Wales – Quarterly Release, June 2012
8 This is the cumulative breach rate between 2000 and 2011 and is used to present an overall indication of how ASBOs have been breached since introduction (as an ASBO could be given in one year and breached in another). ASBO breach data are compiled by matching records of ASBOs issued with ASBOs breached. The nature of this matching process means that ASBO breach data are subject to minor revision each time they are published. Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data can be found at: http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/asbo-stats-england-wales-2011/
10 Clarke et al. 2011. Describing and assessing interventions to address anti-social behaviour
15) There is recognition among practitioners that much of the most serious anti-social behaviour is committed by a persistent minority of people with deep-rooted problems. Their actions are higher impact in terms of both the safety of the community and the cost to the tax-payer. Formal, court based tools, are designed to deal with this small and problematic group, and it is this group who are currently given orders such as ASBOs (both on conviction and on application) and Anti-Social Behaviour Injunctions.

16) However, take-up by applicant authorities (e.g. the local authority or the police) of the support designed to help people address those problems has been very low reducing the possibility of improving behaviour. Only eight per cent of ASBOs issued to young people since 2004 had a supportive order attached. There are a number of reasons for this, for example lack of awareness that the order is available and also cultural differences between agencies around whether court mandated support is appropriate. The Intervention Order, a supportive order for adults, has never been used as the legislation provided very narrow parameters about the type of support that can be included which has not proved practical in reality.

17) There is a clear need to develop a set of simple, faster, more effective formal powers, to sit alongside the informal powers in place for dealing with anti-social behaviour. These formal powers are vital in tackling the behaviour of the small minority of perpetrators who do not respond to informal approaches to dealing with their anti-social behaviour, e.g. warning letters, restorative justice, mediation etc.

C. Objectives

18) Our policy objectives, in streamlining and improving anti-social behaviour powers, are to:

i) simplify the current powers, shifting the emphasis from a specific power for every issue, to giving professionals the means to respond flexibly to a range of ASB problems;
ii) reduce the bureaucracy and cost associated with the more formal powers, for example costs incurred in gathering evidence to the criminal standard of proof, so that agencies can act more quickly to protect victims and communities from serious anti-social behaviour; and
iii) develop more effective tools, which will deter perpetrators, and particularly the persistent minority, from continued anti-social behaviour and criminality.

D. Options

Option 1: do nothing.

19) Under the do-nothing option, the law would remain as it currently stands, so the numerous current court tools would remain to deal with anti-social behaviour by individuals, and the police powers to disperse individuals and groups would be unchanged.

Option 2: to legislate

20) This would include making changes to streamline and simplify the anti-social behaviour toolkit to meet the aims outlined above. This involves the introduction of three strands. Further details of each order can be found in the Impact Assessment published alongside the Draft Bill in December 2012.

a) Introduce a criminal behaviour order;

b) Introduce an injunction to prevent nuisance and annoyance.

c) Introduce a dispersal power.

E. Appraisal (Costs and Benefits)

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11) Taken from Ministry of Justice data on the number of Individual Support Orders issued.
12) Taken from the summary of research into ASBOs given to young people between January 2004 and January 2005: http://ybppublications.justice.gov.uk/Scripts/prodView.asp?idProduct=310&eP=
13) This impact assessment can be found here: http://www.homeoffice.gov.uk/publications/about-us/consultations/community-remedy-consultation/ia-asb-toolkit?view=Binary
General Assumptions and Data

21) This appraisal section updates the modelling, previously included in the impact assessment accompanying publication of the Draft bill (HO0081), in light of recommendations from the HASC. Details of the assumptions and data used can be found in Section E of the previous impact assessment and Annex 2 of this impact assessment so will not be repeated here. Instead, we will focus on changes to the proposed legislation following pre-legislative scrutiny. Any additional data sources used or assumptions made will be set out as they arise in the following sections. For each of the new orders proposed, we will set out the total costs and benefits arising and not just those resulting from the most recent changes.

22) Table E.1 provides the unit costs used throughout the appraisal section.

Table E.1, Unit costs used in this impact assessment

<table>
<thead>
<tr>
<th></th>
<th>Magistrates Court</th>
<th>Youth Court</th>
<th>Crown Court</th>
<th>County Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police officer(^a)</td>
<td>£30</td>
<td>£30</td>
<td>£30</td>
<td>£30</td>
</tr>
<tr>
<td>ASB practitioner(^b)</td>
<td>£40</td>
<td>£40</td>
<td>£40</td>
<td>£40</td>
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<tr>
<td>CPS costs(^c)</td>
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<td>£137</td>
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<td>-</td>
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<tr>
<td>HMCTS costs(^d)</td>
<td>£369(^e)</td>
<td>£369</td>
<td>£665</td>
<td>£365(^f)</td>
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<tr>
<td>Legal aid costs</td>
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<td>£515</td>
<td>£2,000(^h)</td>
<td>£220(^i)</td>
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<tr>
<td>Cost per month of</td>
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<td></td>
<td></td>
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<tr>
<td>immediate custody(^j)</td>
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<td>£2,300</td>
<td>£2,300</td>
<td>£2,300</td>
</tr>
<tr>
<td>Cost of community</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>sentence(^k)</td>
<td>£2,700</td>
<td>£2,700</td>
<td>£2,700</td>
<td>£2,700</td>
</tr>
</tbody>
</table>

Note:

\(^a\) Unit cost for an hour of a police officer’s time. This is a Home Office estimate of the cost of police time estimated using Chartered Institute of Public Finance and Accounting (CIPFA) and Annual Survey of Hours and Earnings (ASHE) data for 2011/12.

\(^b\) Unit cost for an hour of ASB practitioner’s time. This has been provided by practitioners and includes relevant on-costs.

\(^c\) CPS costs are per case for 2010/11 and have been provided by the Ministry of Justice. These are not always applicable. It is clearly referenced in the appraisal when they are.

\(^d\) All HMCTS costs have been provided by HMCTS and are for an hour of court time.

\(^e\) Cost per hour for a district magistrate for breach of an ASBO. For issuing an ASBO a lay magistrates’ legal advisor would be used costing £60 per hour. Court fees of £200 on issue of an ASBO or interim ASBO.

\(^f\) Cost per hour for a circuit judge. Court fees of £175 on issue and £80 on breach are applicable here.

\(^g\) Costs for 2011/12 in the magistrates’ court. Assumed to be applicable for both issue and breach. Provided by Ministry of Justice.

\(^h\) Estimated Crown court legal aid available. This could underestimate costs. Provided by Ministry of Justice.

\(^i\) Estimated County court legal aid available. Provided by Ministry of Justice.

\(^j\) Based on annual yearly costs of a prison place of £28,000 from National Offender Management Service accounts.

\(^k\) The costs are based on the 2008/09 cost in the Ministry of Justice Cost Benefit Framework, inflated using HMT data to get 10/11 nominals. These are converted into real figures in 10/11 prices and the SR real efficiencies from 2010/11 are applied on top. The costs are based on the 2008/09 cost in the Ministry of Justice Cost Benefit Framework, inflated using HMT data to get 10/11 nominals. These are converted into real figures in 10/11 prices and the SR real efficiencies from 2010/11 are applied on top.

Overall Transition costs

23) Transition costs resulting from the introduction of all tools under Option 2 are expected to be minimal as proposed orders and injunctions are similar to current orders used. This will include some additional training for ASB practitioners in local authorities on the Injunction to prevent nuisance and annoyance as they may not be familiar with the current Anti-Social Behaviour Injunction.
2.a) Introduce a criminal behaviour order

Current orders (the ‘do nothing’ option)

<table>
<thead>
<tr>
<th>Order</th>
<th>Standard of proof to get order</th>
<th>Process to get the order</th>
<th>Age range</th>
<th>Minimum/Maximum term</th>
<th>Breach</th>
<th>Burden of proof on breach</th>
<th>Max sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASBO on conviction (CRASBO)</td>
<td>Beyond reasonable doubt (since 2002 ‘McCann’ ruling)</td>
<td>Civil Order attached to a Criminal conviction in the Crown Court, Magistrates Court, Youth Court. Applied for by the prosecutor</td>
<td>10 and over</td>
<td>Minimum term of 2 years, but no maximum term (for both over and under 18s)</td>
<td>Criminal offence heard in Crown Court, Magistrates’ Court or Youth Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.</td>
</tr>
<tr>
<td>Interim ASBO on conviction</td>
<td>That it is just to make an interim ASBO</td>
<td>As above</td>
<td>10 and over</td>
<td>As with full CRASBO, but in practice, these orders only last until the court can schedule a full CRASBO hearing</td>
<td>Criminal offence heard in Crown Court, Magistrates’ Court or Youth Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.</td>
</tr>
<tr>
<td>Drinking Banning Order on conviction (DBO)</td>
<td>Necessary to protect other persons from criminal or disorderly conduct. No need to prove past behaviour.</td>
<td>Civil Order attached to a Criminal conviction in the Crown Court, Magistrates Court, Youth Court [considered automatically alongside any alcohol related conviction]</td>
<td>16 and over</td>
<td>Minimum term of 6 months, maximum term of 2 years</td>
<td>Criminal offence heard in Magistrates’ Court or Youth Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>a summary offence punishable with a fine not exceeding level 4 on the standard scale.</td>
</tr>
</tbody>
</table>
## Introduce a Criminal Behaviour Order

<table>
<thead>
<tr>
<th>Order</th>
<th>Test to get order</th>
<th>Process to get the order</th>
<th>Age range</th>
<th>Minimum/Maximum term</th>
<th>Court on breach</th>
<th>Standard of proof on breach</th>
<th>Max sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Criminal behaviour order (CBO)</strong></td>
<td>That the order will help in preventing the offender from engaging in anti-social behaviour</td>
<td>A civil order attached to a Criminal conviction in the Crown Court, Magistrates Court, Youth Court. Applied for by the prosecutor. The local authority and the police can also formally request the CPS make an application.</td>
<td>10 and over</td>
<td>Adults: Minimum: 2 years, maximum: until further order U18s: Minimum 1 year, maximum 3 years</td>
<td>Criminal offence heard in Crown Court, Magistrates Court or Youth Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.</td>
</tr>
<tr>
<td><strong>Interim Criminal behaviour order</strong></td>
<td>That it is just to make an interim CBO</td>
<td>As above</td>
<td>10 and over</td>
<td>As with full CBO, but in practice, these orders only last until the court can schedule a full CBO hearing</td>
<td>Criminal offence heard in Crown Court, Magistrates Court or Youth Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.</td>
</tr>
</tbody>
</table>
Introduce a Criminal Behaviour Order
24) The main changes between the ‘do nothing’ option and introducing a criminal behaviour order (CBO), are that:

i) court mandated positive requirements could be included in a civil order on conviction;  
ii) the system would be simplified as there would be fewer different types of orders available;  
iii) the minimum terms for the new orders would be different for young people (1 year instead of 2 years), and the maximum terms would also be different for young people (3 years instead of ‘until further order’);  
iv) the local authority and the police could request that the CPS apply for an order (only the police can do this at present);  
v) the prosecution would have to prove that the order would assist in the prevention of future anti-social behaviour; and  
vi) the court could not make an order ‘of its own volition’ (i.e. without an application from the prosecution) – though applications could be made orally with the permission of the judge.

25) In addition, we have included the HASC recommendation that CBOs issued to under 18s are annually reviewed by practitioners.

Transition costs
26) Transition costs are assumed to be minimal as those using the criminal behaviour order will be already familiar with the orders it replaces. During the transition period, any existing ASBOs on conviction or Drinking Banning Orders on conviction will continue to be dealt with as they are under Option 1.

Number of additional orders
27) The current trend of ASBOs on conviction is declining. We assume that the volume of criminal behaviour orders will follow the same trend, because of the broader factors which limit the use of such orders on conviction and the trend among practitioners towards using informal measures to tackle the majority of anti-social behaviour. This means that we assume no additional orders will be issued in comparison to the baseline. In addition, these orders are aimed at the small sub-group of individuals whose behaviour is persistent and ‘entrenched’ (as outlined above). We do not expect these orders to be used on those individuals whose anti-social behaviour is ‘transitional’ who would currently get an informal intervention or potentially an earlier stage court tool like an injunction. As we are also removing the ability of the court to impose an order of its own volition (i.e. without an application from the prosecution), volumes of CBOs issued could be lower than the baseline.

28) However, given the difficulty of predicting future volumes of these orders and uncertainties surrounding impacts, we have modelled other possible scenarios included in the risks section later on in this appraisal section. Upper and lower bounds have been calculated and costs included in Tables E.3 and E.4.

29) Volumes of interim criminal behaviour orders have not been estimated due to a lack of data on current interim ASBOs on conviction. However, it is not thought that there will be any change from the baseline volumes and trends.

Unit costs
30) The unit cost of issuing a criminal behaviour order to all agencies involved is estimated to be broadly the same as the unit cost of issuing an ASBO on conviction due to the similar process involved in obtaining one; we estimate this to be approximately £1,000. As we are simplifying the process for applying for the criminal behaviour order and reducing bureaucracy this may prove to be an

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1 The Drinking Banning Order can include the individual attending an ‘approved course’ but this is their own choice to do this (in order to reduce the length of their order). This option has never been taken up.

2 This will be made clear in the guidance issued after implementation.

3 This includes police, ASB practitioners, HMCTS, CPS and LSC.

4 For someone over the age of 18. For someone under the age of 18 this figure will be approximately £1,200.
overestimate of the cost of issuing a CBO. Further details of how this unit cost is calculated can be found in Annex 2.

31) The estimated volume of additional orders and the associated cost is therefore zero as outlined in table E.3 below. However, a sensitivity analysis has been completed and can be found later in this section.

**Annual reviews**

32) Following pre-legislative scrutiny of the Draft Bill, we have amended proposals to annually review CBOs issued to those under 18. As individuals subject to these orders will be monitored during the course of the order anyway, we do not anticipate that these reviews will require as much time to gather and prepare evidence as issuing the order. They will also not involve a formal court hearing. We assume that this requirement will involve one hour of police time and one hour of practitioner time to complete and therefore cost approximately £80.

33) As the minimum term for ASBOs on conviction is two years. We assume that the duration of CBO orders for under 18s is equivalent to ASBOs issued to under 18s, so all CBOs are likely to require at least one annual review. The latest data show that the majority (97%) of ASBOs\(^5\) issued to under 18s are for between two and four years.\(^6\) Based on this data, we assume that 85 per cent of CBOs will require one review hearing\(^7\) and 15 per cent will require two hearings.\(^8\) As the minimum term of the CBO for under 18s is less than for the ASBO on conviction, this may overestimate the costs as if CBOs are generally shorter in duration than ASBOs on conviction fewer annual reviews will be required. The volume and cost of these reviews is presented in Table E.2 and is also incorporated into the total costs in Table E.3.

<table>
<thead>
<tr>
<th>Year</th>
<th>Volume</th>
<th>Net impact (£m)</th>
<th>Volume</th>
<th>Net impact (£m)</th>
<th>Volume(^a)</th>
<th>Net impact (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>£0.0</td>
<td>270</td>
<td>£0.02</td>
<td>0</td>
<td>£0.02</td>
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<td>£0.02</td>
<td>0</td>
<td>£0.02</td>
</tr>
<tr>
<td>2</td>
<td>0</td>
<td>£0.0</td>
<td>210</td>
<td>£0.02</td>
<td>0</td>
<td>£0.02</td>
</tr>
<tr>
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<td>£0.02</td>
<td>0</td>
<td>£0.02</td>
</tr>
<tr>
<td>4</td>
<td>0</td>
<td>£0.0</td>
<td>170</td>
<td>£0.01</td>
<td>0</td>
<td>£0.01</td>
</tr>
<tr>
<td>5</td>
<td>0</td>
<td>£0.0</td>
<td>170</td>
<td>£0.01</td>
<td>0</td>
<td>£0.01</td>
</tr>
<tr>
<td>6</td>
<td>0</td>
<td>£0.0</td>
<td>160</td>
<td>£0.01</td>
<td>0</td>
<td>£0.01</td>
</tr>
<tr>
<td>7</td>
<td>0</td>
<td>£0.0</td>
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<td>£0.01</td>
<td>0</td>
<td>£0.01</td>
</tr>
<tr>
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<td>0</td>
<td>£0.0</td>
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<td>£0.01</td>
<td>0</td>
<td>£0.01</td>
</tr>
<tr>
<td>9</td>
<td>0</td>
<td>£0.0</td>
<td>130</td>
<td>£0.01</td>
<td>0</td>
<td>£0.01</td>
</tr>
</tbody>
</table>

**Average annual**

- £0.0
- £0.01
- £0.01

**Present value**

- £0.0
- £0.13
- £0.13

**Notes:**

a) Only best estimates are presented, estimates of the lower and upper bounds can be found in the sensitivity analysis section.

b) This does not include the volume of annual reviews, only the number of additional Criminal Behaviour Orders issued in comparison with the baseline, do nothing option.

**Breach rate:**

34) Given the difficulty of predicting future breach outcomes for these orders, we have modelled a best estimate scenario in which the ASBO on conviction breach rate is used as a proxy for the criminal behaviour order breach rate. Sensitivity analysis has then been carried out to allow for some change in the breach rate as a result of differences between the two orders. This sensitivity analysis can be

\(^{5}\) Both those issued on conviction and on application.

\(^{6}\) Taken from Ministry of Justice data on the duration of orders for those aged under 18. 85 per cent are issued for between two and three years, while 13 per cent are issued for between three and four years.

\(^{7}\) As 85 per cent of ASBOs are issued for between two and three years.

\(^{8}\) Based on Ministry of Justice data on the duration of orders for those aged under 18. Some alterations have been made as the minimum and maximum duration of a CBO are both lower than that of a CRASBO.
found at the end of the criminal behaviour order section. The unit cost of a breach hearing\(^9\) is assumed to be the same as that of the ASBO on conviction due to the criminal nature of the breach and the similar process involved and is estimated at approximately £2,200.\(^10\)

**Disposal outcomes:**

35) These are assumed to be the same as for the ASBO on conviction due to the same maximum penalties being available on breach. This could lead to a potential uptariffing of sentences for any orders that would previously have been dealt with through a Drinking Banning Order (DBO) on conviction. Breach of a DBO on conviction currently has a maximum sentence of a level 4 fine, so more serious sentences could be issued for some orders under Option 2 which would result in additional costs for HM Prisons and the probation service. However, we have not been able to quantify the costs relating to DBOs on conviction so we have not estimated any increase in the number of prison places required.

**Impacts by organisation:**

36) The following individuals/sectors are likely to be affected by the proposals.

   i) **Police:** We expect small additional costs arising from the new requirement to review CBOs issued to under 18s annually. Otherwise, the only additional costs would be in paying for positive requirements or in increased monitoring costs as a result of positive requirements where they choose to do so. However, these costs are not known.

   ii) **Local authorities:** We expect small additional costs arising from the new requirement to review CBOs issued to under 18s annually. Otherwise, the additional costs for local authorities would be in paying for positive requirements or in increased monitoring costs as a result of positive requirements where they choose to do so. However, these costs are not known.

   iii) **Registered providers of social housing:** We do not expect social landlords to be affected by this proposal. Social landlords are unlikely to use the Criminal Behaviour Order as they cannot act as the prosecutor or ask the CPS directly to take forward an order.

   iv) **Youth Offending Teams:** We do not expect Youth Offending Teams to be affected by this proposal, as they would already be working with any young person being given an order on conviction having been involved in the criminal part of the trial. Any additional costs incurred through the provision of positive requirements would be covered by the organisation proposing those requirements (generally the local authority).

   v) **Her Majesty’s Courts and Tribunals Service (HMCTS):** As we are not expecting an increase in the number of Criminal Behaviour Orders applied or the breach rate compared with the baseline, we do not expect HMCTS to be affected by this proposal.

   vi) **Crown Prosecution Service (CPS):** These changes will have minimal impact on the workload for the CPS. The issuing of any additional orders, while not expected under the best estimate scenario, could lead to additional costs for the CPS. Further additional costs may be incurred if there is an increase in the breach rate of CBOs compared to ASBOs (as a result of the introduction of positive requirements).

   vii) **Probation Service:** The addition of positive requirements may lead to additional costs for probation, but only if local funding were provided (as the court cannot order requirements which are not available and funded locally).

   viii) **Legal Services Commission (LSC):** We do not estimate legal aid costs to increase as we expect volumes of orders to follow current trends. We have carried out sensitivity analysis in case volumes of applications increase in relation to current trends.

   ix) **Prison Service:** Impact on prison places would be negligible as the maximum sentence would be the same as currently exists for the ASBO on conviction and there is no increase in breach volumes expected.

**Non-quantifiable costs**

37) **Positive requirements:** We have not been able to include the cost of any positive requirements in the unit cost estimate. We are not specifying in legislation the types of positive requirements which could be imposed through the order, other than that they must assist in the prevention of future anti-
social behaviour. In relation to positive requirements, the key point in terms of impact is that before making an order which includes any positive requirements, the court must receive written or oral evidence from the person who would supervise and monitor the order. This will ensure that the requirement is available, appropriate and enforceable. We expect that the majority of positive requirements would typically be a service that is provided in any case (for example, local authority funded community mediation), so the additional costs of providing the actual requirement should not be significant, assuming spare capacity.

38) Monitoring costs: We do not anticipate that the criminal behaviour order will require any additional resources for the monitoring of the prohibitions imposed through orders. In fact, as the minimum term of the order for young people is less than for the ASBO on conviction, this may result in savings in terms of monitoring.

39) There may be an increase in the cost due to monitoring of orders including positive requirements. However, we cannot quantify these costs due to the number of different requirements available, and the lack any data we could use as a proxy to estimate how many orders may contain positive requirements.

40) The costs of variation hearings and appeals have also not been quantified as these are not assumed to change post-implementation so are unlikely to represent any additional cost.

Benefits
41) Due to a lack of available data it has not been possible to quantify any additional benefits of implementing the Criminal Behaviour Order compared to the baseline, do nothing, Option 1.

Non-quantifiable Benefits
42) A number of changes are being proposed to remove bureaucracy associated with the current ASBO on conviction. This should mean that criminal behaviour order applications require less local authority and police time to prepare the case files and less court time to hear the cases, as the test to get the order would now have one stage rather than two (the order would just need to be proved to assist with the prevention of future ‘harassment, alarm or distress’ rather than having to prove further behaviour that caused ‘harassment, alarm or distress as well’). We have not been able to estimate these savings, instead we have used the amount of practitioner (local authority and police), court time, and CPS time required for an ASBO on conviction as a proxy which results in no savings. As a result, this proxy is likely to underestimate the benefits as it based only on the costs of issuing an ASBO on conviction.

43) There are likely to be longer-term benefits associated with the use of positive requirements to change the behaviour of offenders, and potentially reduce future anti-social behaviour and offending. However, we have not been able to quantify these benefits due to the broad range of potential positive requirements and the difficulties in reliably assessing how many new orders will include positive requirements. In addition, the evidence of the effectiveness of some of the potential requirements is somewhat limited. From the respondents to the consultation who answered our question about impacts of positive requirements on reoffending in relation to the criminal behaviour order, 52 per cent of them thought that reoffending would decrease.

Risks and sensitivity analysis
44) The varied assumptions surrounding the estimated volume of orders issued make it hard to accurately predict impacts at this stage, and mean that impacts will need to be kept under review as the policy develops. This is further set out in section J. We assume that estimating criminal behaviour order volumes on the basis on ASBO on conviction is assumed to be the best estimate as we do not expect the new orders to be used in a wider range of cases. The criminal behaviour order will only be available on conviction, as the ASBO on conviction and DBO on conviction are, and the courts will no longer be able to issue them of their own volition which could lead to a decrease in the

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11 Without spare capacity, there will still be an opportunity cost to providing these positive requirements. The cost of providing the requirements could fall to a range of agencies e.g. local authorities, housing associations, probation but only if they agreed to it at a local level before the application was made.
12 Including bringing the Criminal Behaviour Order into line with other civil orders on conviction by removing the preliminary test of ‘harassment, alarm or distress’ and giving the judge the ability to accept an oral application if he or she deems this appropriate.
13 This includes a C4EO (2011) literature review of the positive impact of mentoring and evidence on the effectiveness of alcohol treatment and family interventions programmes.
volume of orders issued, especially as the courts currently have to consider a DBO on conviction following every conviction for an offence where alcohol was involved\textsuperscript{14}.

45) There are risks that the positive requirements may impose additional costs, however these will be mitigated by ensuring that the only positive requirements that can be imposed are those suggested by the relevant authority (on the basis of what it deems affordable and necessary to address the behaviour in question), or potentially something which the individual would agree to pay for to reduce the length of the order. There is also a risk that there may be increased costs from an increase in breach rates as a result of the use of positive requirements\textsuperscript{15}.

46) A sensitivity analysis has been undertaken to try to demonstrate the potential scale and direction of error. Upper and lower bounds have been constructed for both volumes and breach rates estimated to take into account uncertainty when forecasting.

47) The \textit{lower bound} is modelled on the premise that the number of criminal behaviour orders issued will be the same as the number of ASBOs on conviction issued, so there will be no additional orders. To account for the fact that ASBOs on conviction may not continue on the downward trend they have been experiencing for the past five years, we have carried out sensitivity analysis against both a baseline that continues to fall in line with the recent trend and against a baseline that remains constant at 2011 levels. However, in the lower bound the baseline trend has no implications for the estimates because we assume no additional orders are issued. The lower bound scenario includes additional annual reviews for those under 18. The lower bound also uses a breach rate 10 percentage points lower than that of the ASBO on conviction to account for the potential positive impact positive requirements could have on offender behaviour.

48) The \textit{upper bound} scenario assumes that the volume of ASBOs on conviction continue their downward trend over the appraisal period while the estimated volume of criminal behaviour orders issued increases at five per cent each year from the volume of ASBOs on conviction issued in 2011.\textsuperscript{16} As a result, we estimate an additional 200 to 600 orders are issued each year. The upper bound also uses a breach rate 10 percentage points higher than that of the ASBO on conviction to account for the potential positive impact positive requirements could have on offender behaviour.

Table E.3: Estimated additional volumes\textsuperscript{a} and net impact of implementing criminal behaviour orders
(Sensitivity analysis)

<table>
<thead>
<tr>
<th>Year</th>
<th>Volume</th>
<th>Net impact (£m)</th>
<th>Volume</th>
<th>Net impact (£m)</th>
<th>Volume</th>
<th>Net impact (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>£0.02</td>
<td>0</td>
<td>£0.49</td>
<td>200</td>
<td>£1.3</td>
</tr>
<tr>
<td>1</td>
<td>0</td>
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<td>£0.49</td>
<td>200</td>
<td>£1.6</td>
</tr>
<tr>
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<td>£0.02</td>
<td>0</td>
<td>£0.49</td>
<td>300</td>
<td>£1.8</td>
</tr>
<tr>
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<td>0</td>
<td>£0.49</td>
<td>300</td>
<td>£2.1</td>
</tr>
<tr>
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<td>300</td>
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</tr>
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</tr>
<tr>
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<td>0</td>
<td>£0.49</td>
<td>500</td>
<td>£3.0</td>
</tr>
<tr>
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<td>0</td>
<td>£0.49</td>
<td>500</td>
<td>£3.3</td>
</tr>
<tr>
<td>8</td>
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<td>0</td>
<td>£0.49</td>
<td>600</td>
<td>£3.6</td>
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<tr>
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<td>£0.01</td>
<td>0</td>
<td>£0.49</td>
<td>600</td>
<td>£4.0</td>
</tr>
</tbody>
</table>

| Average annual |  £0.01 | £0.49 | £2.6 |
| Present value  | -£0.13 | £4.24 | £21.4 |

Notes:
\textsuperscript{a} Volumes only reflect the additional number of orders issued and so do not include the additional annual reviews of CBOs for under 18s. The costs of these reviews, however, are included in the cost estimates presented.

\textsuperscript{14} We cannot predict how this might impact the volume of CBOs issued as there is no data on the proportion of CRASBOs or DBOs on conviction currently issued by the courts as opposed to applied for by the prosecution. If the proportion of court issued CRASBOs and DBOs is high, it is likely that Criminal Behaviour Order volumes will be lower than CRASBO volumes.

\textsuperscript{15} As there are likely to be more requirements in an order (both positive and negative) for an offender to comply with. this could increase the breach rate.

\textsuperscript{16} Taken from Ministry of Justice statistics.
49) The savings generated in the lower bound scenario are as a result of a lower breach rate and so fewer breach hearings in comparison to the baseline. Savings will be made by all agencies involved in breach hearings; anti-social behaviour practitioners (generally local authority), police, HMCTS, CPS, LSC, Prisons Service as well as the Probation Service. As a result of fewer breach hearings, we estimate that 11 fewer prison places would be needed each year. The costs generated in the upper bound scenario are as a result of more orders issued in Option 2 as compared to the baseline, do nothing Option 1. As a result there will also be more breach hearings from more orders issued as well as the higher breach rate estimated. Costs\textsuperscript{17} will fall to all agencies involved in the issue and breach hearing process; anti-social behaviour practitioners (generally local authority), police, HMCTS, CPS, LSC, HM Prisons, as well as the Probation Service. We estimate that approximately 60 additional prison places would be necessary each year. Average annual costs by agency are presented in Table E.4 below.

| Table E.4: Estimated average annual net impact of implementing Criminal Behaviour Order, by agency |
|---------------------------------------------------|------------------|------------------|
| Best estimate | Lower bound | Upper bound |
| Police | £0.01 | £0.00 | £0.10 |
| Practitioners | £0.01 | £0.00 | £0.18 |
| HMCTS | £0.00 | £0.03 | £0.22 |
| CPS | £0.00 | £0.06 | £0.25 |
| LSC | £0.00 | £0.07 | £0.46 |
| HM Prisons | £0.00 | £0.27 | £1.11 |
| Probation | £0.00 | £0.06 | £0.24 |
| Total | £0.01 | £0.49 | £2.57 |

50) These lower and upper bound scenarios represent the estimated extremes of what could happen if the criminal behaviour order is implemented. We would expect that, in reality, what will happen will fall in between these two extremes and our best estimate is that criminal behaviour order volumes will closely follow the decline expected in ASBO on conviction volume, leading to minimal additional costs as a result of implementing Option 2.

51) There is a risk that the new criminal behaviour order will be used more frequently than the powers it is set to replace, or that the current trend of reducing volumes changes. This could result in additional costs, but the likelihood is thought to be low and sensitivity analysis has been done (above) to assess the potential impact if this were to happen.

52) There is also a risk that there may be some additional costs to the prison and probation service associated with the criminal behaviour order carrying a custodial punishment on breach. This will only affect orders previously issued as Drinking Banning Orders on conviction as the penalty for breach of the criminal behaviour order is the same as for the ASBO on conviction. Breach of the Drinking Banning Order on conviction currently only carries a level 4 fine on breach so there is the potential for uptariffing of sentences here in comparison with the baseline. As the number of DBOs on conviction issued nationally is not known, these costs have not been included in the modelling.

\textsuperscript{17} As previously stated, any costs identified will be opportunity rather than financial costs.
2.b) Introduce an injunction to prevent nuisance and annoyance

Current orders (the ‘do nothing’ option)

<table>
<thead>
<tr>
<th>Order</th>
<th>Standard of proof to get order</th>
<th>Process to get the order</th>
<th>Age range</th>
<th>Minimum/Maximum term</th>
<th>Breach</th>
<th>Standard of proof on breach</th>
<th>Max sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASBO on application</td>
<td>Beyond reasonable doubt (since 2002 ‘McCann’ ruling)</td>
<td>A civil order applied for in the Magistrates’ Court, or County Court (if attached to other proceedings). The majority are applied for by local authorities, but they can also be applied for by the police, registered social landlords, Transport for London, the Environment Agency and Housing Action Trusts</td>
<td>10 and over</td>
<td>Minimum term of 2 years, but no maximum term (for both over and under 18s)</td>
<td>Criminal offence heard in Crown Court, Magistrates’ Court or Youth Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.</td>
</tr>
<tr>
<td>Interim ASBO on application</td>
<td>That it is just to grant the interim ASBO</td>
<td>As above</td>
<td>10 and over</td>
<td>As with full ASBO, but in practice, these orders only last until the court can schedule a full ASBO hearing</td>
<td>Criminal offence heard in Crown Court, Magistrates’ Court or Youth Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.</td>
</tr>
<tr>
<td>Individual Support Order</td>
<td>That the ISO is desirable in the interests of preventing any repetition of the ASB leading to the ASBO</td>
<td>A civil order applied for in the Magistrates’ Court alongside an ASBO</td>
<td>Under 18s</td>
<td>No minimum, 6 months maximum</td>
<td>Criminal offence heard in the Youth Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>£1000 if defendant is 14-17, £250 if under 15</td>
</tr>
<tr>
<td><strong>Intervention Order</strong></td>
<td>That the IO is desirable in the interests of preventing any repetition of the ASB leading to the ASBO</td>
<td>A civil order applied for in the Magistrates’ Court alongside an ASBO</td>
<td>18 and over</td>
<td>No minimum, 6 months maximum</td>
<td>Criminal offence heard in the Magistrates’ Court. Prosecuted by CPS.</td>
<td>Beyond reasonable doubt</td>
<td>a fine not exceeding level 4 on the standard scale.</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>-------------</td>
<td>--------------------------------</td>
<td>-----------------------------------------------------------------</td>
<td>--------------------------</td>
<td>------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>ASB Injunction</strong></td>
<td>On the balance of probabilities</td>
<td>A civil order applied for in the County Court. This injunction is only available to deal with anti-social behaviour by tenants, and can be applied for by registered providers of social housing, housing action trusts and by local authorities</td>
<td>Over 18s</td>
<td>No statutory minimum or maximum</td>
<td>Contempt of court proceedings heard in the County Court. Proceedings taken by applicant.</td>
<td>Beyond reasonable doubt</td>
<td>No criminal offence. Contempt of court – unlimited fine and up to 2 years in prison</td>
</tr>
<tr>
<td><strong>Interim ASB Injunction</strong></td>
<td>That it is just to make an interim ASBI</td>
<td>As above</td>
<td>Over 18s</td>
<td>No statutory minimum or maximum</td>
<td>Contempt of court proceedings heard in the County Court. Proceedings taken by applicant.</td>
<td>Beyond reasonable doubt</td>
<td>No criminal offence. Contempt of court – unlimited fine and up to 2 years in prison</td>
</tr>
<tr>
<td><strong>Drinking Banning Order on application</strong></td>
<td>Civil order but McCann ruling may apply(^1)</td>
<td>A civil order applied for in the Magistrates’ Court or the County Court (if attached to other proceedings) and can be applied for by the police or local authorities.</td>
<td>Over 16s</td>
<td>2 months minimum, 2 years maximum</td>
<td>Criminal offence heard in the Magistrates Court or Youth Court. Prosecuted by CPS</td>
<td>Beyond reasonable doubt</td>
<td>a fine not exceeding level 4 on the standard scale.</td>
</tr>
</tbody>
</table>

## Introduce a Injunction to prevent nuisance and annoyance

<table>
<thead>
<tr>
<th>Order</th>
<th>Standard of proof to get order</th>
<th>Process to get the order</th>
<th>Age range</th>
<th>Minimum/Maximum term</th>
<th>Breach</th>
<th>Standard of proof on breach</th>
<th>Max sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Injunction to prevent nuisance and annoyance</td>
<td>On the balance of probabilities</td>
<td>A civil order in the County Court or Youth Court. Applied for by local authorities, police, registered social landlords, Transport for London, the Environment Agency, NHS Protect and Housing Action Trusts</td>
<td>10 and over</td>
<td>No statutory minimum or maximum</td>
<td>Contempt of Court proceedings heard in the County Court or Youth Court. Proceedings taken by applicant.</td>
<td>Beyond reasonable doubt</td>
<td>No criminal offence on breach</td>
</tr>
</tbody>
</table>

Contempt of court – unlimited fine and up to 2 years in prison (for over 18s)

For under 18s: Supervision requirement, activity requirement, detention (up to 3 months – only for 14-17 year olds)

| Interim injunction to prevent nuisance and annoyance | That it is just to make an interim IPNA | A civil order in the County Court or Youth Court. Applicants as above. | 10 and over | No statutory minimum or maximum (but likely to be until the full hearing of the IPNA) | Contempt of Court proceedings heard in the County Court or Youth Court. Proceedings taken by applicant. | Beyond reasonable doubt | No criminal offence on breach |

Contempt of court – unlimited fine and up to 2 years in prison (for over 18s)

For under 18s: Supervision requirement, activity requirement, and detention up to 3 months – but not for persons aged under 14.
Introduce an injunction to prevent nuisance and annoyance

53) The main changes between the ‘do nothing’ option and introducing the injunction to prevent nuisance and annoyance (IPNA) are that:

i) breach of the new orders would not be a criminal offence;
ii) court mandated positive requirements could be included in the same order as prohibitions;¹
iii) the system would be simplified as there would be fewer different types of orders available;
iv) the minimum terms for the new orders would be different compared with the ASBO, as there would be no statutory minimum;
v) the maximum terms would be different compared with the Drinking Banning Order, the Individual Support Order and the Intervention Order, as there would be no statutory maximum, though we will continue to consider whether there should be a statutory maximum term as part of the process of pre-legislative scrutiny; and
vi) the test to get the new order would be a lower test compared with the current stand alone ASBO test, though would be the same as the current ASBI test (‘nuisance and annoyance’ rather than ‘harassment, alarm or distress’).

54) In addition, we have included the HASC recommendation that the maximum length of an IPNA issued to under 18s is one year. This may result in additional applications for IPNAs as the minimum term for ASBOs is currently two years. This has been incorporated into the modelling and is discussed below.

**Transition costs**

55) Some transition costs could be incurred as certain practitioners e.g. local authorities, police, the Environment Agency and Transport for London) will not be familiar with injunction application processes or County and Youth Court procedures. However, the lower evidence standard means that procedures should be simpler than those for the ASBO on application hearings. Many practitioners will be already familiar with ASB Injunction. Youth Court judges may require some additional training as this court cannot currently hear civil cases but many of these judges and youth court magistrates already deal with ASBO on application cases involving under 18s in the special sittings of Magistrates’ Courts so would be familiar with civil orders. As a result, we do not expect transition costs to be significant.

56) During the transition period, any existing orders will continue to be dealt with as they are under Option 1.

**Number of additional orders**

57) We expect the introduction of the injunction to prevent nuisance and annoyance to reduce the duplication within the current orders issued as orders will be easier to obtain meaning practitioners will no longer need to apply for both the Interim ASBO and the ASBO on application.² As the IPNA is estimated to be less bureaucratic and easier to apply for, we assume that this duplication will cease. We cannot predict with certainty how this will affect the volume of Injunction to prevent nuisance and annoyances compared to the baseline, as we do not know how many Interim ASBOs go on to be issued as full ASBOs³ so upper and lower bound scenarios have been estimated. In both cases, we also consider the volume of Anti Social Behaviour Injunctions (ASBIs).

58) For the **lower bound**, we assume the duplication lies with Interim ASBO applications, so that the introduction of the IPNA will reduce applications for the Interim ASBO to zero; the only volumes considered are those of the ASBO on application, and ASBI. In the second case, we assume that applications for the ASBO on application reduce to zero so that only applications for the Interim ASBO and ASBI are considered. This will be referred to as the **upper bound**. The best estimate is calculated as the mid-point of these two scenarios.

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¹ The Drinking Banning Order can include the individual attending an ‘approved course’ but this is their own choice to do this (in order to reduce the length of their order). This option has never been taken up.
² Practitioner evidence suggests there is currently duplication, with many applying for both the Interim ASBO and the stand-alone ASBO as a result of the lengthy process to obtain an ASBO.
³ Or how many practitioners use Interim ASBOs because of the cumbersome process to obtain a full ASBO on application.
59) In either case, we estimate that those applications which would have been for Individual Support Orders or Intervention Orders will no longer need to be made due to the inclusion of positive requirements in the injunction. This will not have a significant impact on volumes or costs, as these orders are used infrequently at present, and because they are heard at the same time as an ASBO application (they cannot be applied for separately from an ASBO). In order to ensure a fair comparison, ISOs and IOs volumes have not been included in the baseline totals as it is not possible to apply for these orders separately. However, the practitioner cost of implementing these orders, where known, has been included in the baseline calculations.

60) Volumes of interim Injunction to prevent nuisance and annoyances have not been estimated separately as we do not have separate data on the interim ASB Injunction as opposed to full ASB Injunctions to base an estimate on. Due to lack of data, the baseline does not contain an estimate for interim ASB Injunctions. We assume that the Interim Injunction to prevent nuisance and annoyance will be largely similar to the Interim ASB Injunctions due to the similar process involved in the application for both full orders. We do not anticipate that the interim IPNA will follow the trend in interim ASBOs with only some interim ASBOs becoming full, stand-alone ASBOs. We assume that it will follow the trend in interim ASBIs as an interim measure on the way to obtaining a full ASBI and so have minimal costs attached, unlike the interim ASBO.

61) The estimated volume of IPNAs issued is assumed to follow the trend in orders they replace with an increase of five per cent in comparison with the baseline. We do not expect there to be a large widening of availability due to the lowering of the threshold of proof, as this is only lower than the ASBO and not the ASBI which forms the majority of estimated applications for the Injunction to prevent nuisance and annoyance. There is also the limiting factor of practitioner resource and the fact that these injunctions would not be appropriate for the majority of individuals engaged in ‘transitional’ anti-social behaviour. A further limiting factor is that now practitioners must pay to prosecute their own breaches rather than passing this cost on to the CPS. However, there is likely to be a small increase in volumes due to injunctions being easier to use than ASBOs, and so both the upper and lower bounds show an increase in volumes. Expected additional volumes of orders issued can be seen in Table E.5.

**Unit costs**

62) The unit cost for the Injunction to prevent nuisance and annoyance is assumed to be the same as for the ASBI due to the similar nature of the order (e.g. both are civil orders in the County Court). The unit costs of issuing an IPNA are approximately £550 for someone aged over 18 and £700 for someone aged under 18. Approximately 30 per cent of Injunction to prevent nuisance and annoyance applications are estimated to be made for those under the age of 18, based on the current volume of those under 18 receiving ASBOs. These applications will be heard in the Youth Court, the costs of which have been factored into the total costs for this section.

63) The additional estimated volumes of IPNAs issued in comparison to the baseline, do nothing option is considered in Table E.6 in the quantified benefits section, as the cost of implementing these orders is actually a saving in comparison to the baseline, ‘do nothing’ option. We have not been able to quantify the costs to the applicant of the positive requirement elements of an IPNA, but any non-voluntary positive requirements will add to the unit cost. This is likely to lead to the ASBI unit cost being an underestimate of cost of an Injunction to prevent nuisance and annoyance which includes positive requirements. The types of positive requirements which could be imposed through a Injunction to prevent nuisance and annoyance would be the same as for a criminal behaviour order (see paragraph 31).

**Breach rate**

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4 This does not include any court time as no additional court time is assumed to be required to issue these orders.

5 So for the upper bound the volume IPNAs issued is estimated to be the volume of ASBIs and Interim ASBOs issued, plus 5 per cent per year. For the lower bound, it is estimated to be the volume of ASBIs and ASBOs on application issued each year plus 5 per cent per year.

6 Costs fall to the police, ASB practitioners (including social landlords), HMCTS and LSC.

7 Including costs to police, practitioners, HMCTS, and LSC.
64) The breach rate is estimated to be 40 per cent\(^8\) each year. This is the midpoint of the ASBO on application and ASBI breach rates. Sensitivity analysis has been carried out on this assumption and included in the upper and lower bound estimates in the table below. This assumes that the breach rate could be up to 10 percentage points higher or lower than the best estimate as a result of the inclusion of positive requirements. Breach proceedings are assumed to be mostly similar to the anti-social behaviour injunction process described in the table above. As such, the unit cost of a breach hearing is estimated to be approximately £600 for someone aged over 18 and £700 for someone aged under 18. Further details can be found in Annex 2.

65) The volume of breach hearings and their associated costs are set out in Table E.7 in the quantified benefits section below as the costs of breaching Injunction to prevent nuisance and annoyances actually represent a saving in comparison to the baseline. We have not been able to model breach of either interim ASBIs (for the baseline) or interim IPNAs (for Option 2) as these are temporary orders given for a short period of time if court time is not available to hear the full case. The breach rate for the Injunction to prevent nuisance and annoyance has been estimated as the mid-point between the ASBO and the ASBI breach rates. We assume this is the best estimate as there was no evidence supporting a better proxy.

**Annual reviews**

66) Following pre-legislative scrutiny by the HASC, we have amended proposals to reduce the maximum length of an IPNA, issued to those under 18, to one year. This could increase the volume of IPNAs applied for if practitioners wish to extend the IPNA for another year. As the minimum term for ASBOs on application is two years, this could be the case. However, as the vast majority (85%) of ASBOs issued to under 18s are for between 2 and 3 years, we expect that where extensions are required this will most likely only require one additional hearing. We have incorporated this into our modelling as follows. For the lower bound scenario described above, we assume that no IPNAs for under 18s need to be extended. For the upper bound, we assume that all IPNAs for under 18s require extension with 85 per cent requiring one additional hearing and 15 per cent requiring two. We assume that the best estimate is the midway point of these two scenarios.

67) The unit cost for these review hearings is assumed to be the same as the cost of issuing an IPNA. This is likely to overestimate the costs as we would expect less preparation and court time to be required. However, the cost of issuing an IPNA is our best available proxy. The volume and the cost of these reviews are presented in Table E.5.

<table>
<thead>
<tr>
<th>Year</th>
<th>Best estimate</th>
<th>Net impact (£m)</th>
<th>Lower bound</th>
<th>Net impact (£m)</th>
<th>Upper bound</th>
<th>Net impact (£m)</th>
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</thead>
<tbody>
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<td>0</td>
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</tr>
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<tr>
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<td>-£3.7</td>
</tr>
<tr>
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<td>£0</td>
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<td>-£3.9</td>
</tr>
<tr>
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<td>-£4.0</td>
</tr>
<tr>
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<td>-£4.2</td>
</tr>
<tr>
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<td>£0</td>
<td>2,590</td>
<td>-£4.3</td>
</tr>
<tr>
<td><strong>Annual average</strong></td>
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<td><strong>£0.0</strong></td>
<td><strong>0</strong></td>
<td><strong>£0.0</strong></td>
<td><strong>2.590</strong></td>
<td><strong>£-3.5</strong></td>
</tr>
<tr>
<td><strong>Present value</strong></td>
<td><strong>-£14.8</strong></td>
<td><strong>£0.0</strong></td>
<td><strong>0</strong></td>
<td><strong>£0.0</strong></td>
<td><strong>-29.6</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Impacts by organisation**

68) The following individuals/sectors are likely to be affected by the proposals:

\(^8\) This is estimated as the midpoint of the ASBO and ASBI breach rates (from MoJ statistics, and social landlord evidence respectively). The annual breach rate for ASBOs is 71 per cent (calculated from Ministry of Justice statistics 2005-2011) and the breach rate for ASBIs is approximately 15 per cent. This is broadly consistent with the expected breach rate for the gang injunctions, though is likely to be lower as the aims of the orders are quite different, and those being given gang injunctions are likely to have more entrenched behaviour issues.

\(^9\) Those issued over and above those considered in the baseline. Where there are negative numbers represents fewer orders being issued than under the ‘do nothing’ option.
i) **Police:** We expect minimal impacts on the police as we expect the police to use criminal behaviour orders more than Injunction to prevent nuisance and annoyances. However, if the police did apply for an injunction to prevent nuisance and annoyance then the main cost increase would be that they must pay to prosecute their own breaches rather than relying on passing this cost onto the CPS.

ii) **Local authorities:** The costs for local authorities would be in paying for any positive requirements or in increased monitoring costs as a result of positive requirements where they choose to do so.

iii) **Registered Providers of social housing:** There is unlikely to be an impact on social landlords as they currently use ASBIs, which are similar to the Injunction to prevent nuisance and annoyance, and will continue to do so. The only cost for social landlords would be in paying for any positive requirements or in increased monitoring costs as a result of positive requirements.

iv) **Youth Offending Teams (YOTs):** The only additional cost for YOTs would be in responding to a consultation request when another agency was applying for an IPNA. However, this would be light touch and would not require them to produce any specific reports or documentation unless they thought it would be useful in supporting the application.

v) **Her Majesty’s Courts and Tribunals Service (HMCTS):** We expect there would be an increase in the number of orders in the County Court and the Youth Court and a decrease in the number of orders in the Magistrates Court in comparison to the baseline. Due to the comparative costs of each court this will result in an increase in court costs, however, this will be partially offset by fee income.

vi) **Crown Prosecution Service (CPS):** We expect these changes to decrease the workload for the CPS as breach of an Injunction to prevent nuisance and annoyance is not a criminal offence. This means the CPS would not be involved at any stage of the Injunction to prevent nuisance and annoyance. This will represent a saving for the CPS on any injunction that would previously have been issued as an ASBO on application and so have incurred costs in prosecuting any breach of that order.

vii) **Probation services:** The addition of positive requirements may increase work for probation, but only if local funding were provided (as the court cannot order requirements which are not available and funded locally).

viii) **Legal Services Commission (LSC):** We do not expect legal aid costs to increase as we estimate volume of orders issued will be lower than the baseline. Savings will also be made as eligibility for legal aid is lower in the County Court than the Magistrates Courts for anti-social behaviour powers.

ix) **Prison Service:** We expect that there will be a reduction in prison places as the stand-alone ASBO has a maximum sentence of five years, compared with a maximum sentence of two years for contempt of court for adults, or a maximum sentence of three months for 14-17 year olds. However, we have not been able to quantify this due a lack of data availability on current sentencing practices for breach of an ASBI.

### Non-quantifiable costs

69) **Positive requirements:** Where relevant authorities propose positive requirements to the court as part of an IPNA, those may entail some additional costs which may partially offset the anticipated benefits of addressing the underlying causes of the individual’s behaviour. This depends on the type of positive requirements applied for, and whether they are using existing service provision within e.g. the local authority. As with the criminal behaviour order, we have not been able to estimate those costs; or the impact that the inclusion of positive requirements will have on the breach rate and the costs associated with this. This is because of the number of different variations in types of requirements, and the lack of any data to be used as a proxy to estimate the number of orders which may contain positive requirements.

70) **Disposals on breach:** Due to a lack of data concerning the disposals for breach of ASBIs, we have not been able to estimate the possible disposal outcomes of the IPNA or to quantify their cost.

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10 Where positive requirements relate to under 18s which will involve the Youth Offending Team, we would envisage the use of local authority support services targeted at young offenders

11 Gang injunctions are the only existing orders which contain both positive and negative requirements and there are insufficient data to allow for any assumptions to be made.
Therefore, we cannot estimate the impact of these reforms on prison places. Anecdotal evidence gathered by the Social Landlords Crime and Nuisance Group suggests that the most likely outcome for breach of an ASBI is a suspended sentence or custodial sentence of approximately three months. Between 2000 and 2010 between 9 and 59 individuals were in prison for contempt of court at any one time compared to Ministry of Justice ASBO data showing that, over the same period, 6,007 individuals were given a custodial sentence for breach of an ASBO on application or ASBO on conviction. For those orders issued to adults that would previously have been issued as ASBs there is likely to be no change in the disposal outcomes for breach of the order as breach will continue to amount to a contempt of court. However, for those that would previously have been issued as ASBOs there could be a reduction in severity of disposal outcomes as the maximum penalty for contempt of court is lower than for breach of an ASBO. As a result there is a potential saving that could be made with shorter custodial sentences apportioned for breach as compared to the baseline.

As there are currently no powers to detain those under 18 for contempt of court, we have not been able to quantify the effect of the policy on disposals for under 18s. Custody will only be available as an option for 14-17 year olds, whereas for the ASBO children as young as 12 have been given custodial sanctions on breach. In addition, the maximum sentence for breach by a young person would be three months, as opposed to the ASBO maximum of five years. In addition, the IPNA is a preventative injunction designed to stop behaviour at an early stage, the court will only detain under 18s as a very last resort for breach where no other punishment would be appropriate. Therefore, we expect there will be a reduction in the use of custody for breach of the injunction for under 18s compared with the ASBO for under 18s.

Monitoring costs: The cost of monitoring IPNAs has not been estimated due to a lack of data available surrounding current monitoring of ASBOs on application. We do not expect that the IPNA will require any additional resources for the monitoring of the prohibitions imposed through orders and as the minimum term of the order for young people is less than for the ASBO on conviction this may result in savings in terms of monitoring.

As for the CBO, there may be an increase in the cost due to monitoring of orders including positive requirements. However, we cannot quantify these costs due to the number of different requirements available, and the lack any data we could use as a proxy to estimate how many orders may contain positive requirements.

Variation and appeals: Costs of variation hearings and appeals have also not been possible to quantify, but again are not thought to represent any additional costs as are unlikely to change post implementation.

Benefits

The benefits quantified following the introduction of the Injunction to prevent nuisance and annoyance are the savings identified in the costs section and can be seen in tables E.6 and E.7. This captures the reduction of duplication between the ASBO on application and the interim ASBO as well as the savings from the greater role for the County Court. Negative volumes indicate fewer orders being issued in comparison to the baseline. The assumptions for this modelling can be found earlier in this section. The best estimate is assumed to be the midpoint of the lower and upper bound scenarios.

Table E.6 demonstrates the savings (benefits) available as a result of issuing Injunction to prevent nuisance and annoyances while E.7 focuses on the savings resulting from lower breach costs.

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12 On the occasion of the severest sentence received. Custodial sentences for breaching an ASBO may have been given concurrently with custodial sentences for other offences for which the person was found guilty.
13 Maximum penalty for contempt of court is 2 years imprisonment whereas for an ASBO it is 5 years imprisonment.
14 For example 222 12-14 year olds have received a custodial sentence for breach of ASBO from 2000 to 2010: Custodial sentences for breaching an ASBO may have been given concurrently with custodial sentences for other offences for which the person was found guilty.
15 That is hearings to vary the terms of the injunction
Table E.6: Estimated additional volumes and net impact orders issued

<table>
<thead>
<tr>
<th>Year</th>
<th>Best estimate</th>
<th>Net impact (£m)</th>
<th>Lower bound</th>
<th>Net impact (£m)</th>
<th>Upper bound</th>
<th>Net impact (£m)</th>
</tr>
</thead>
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<td>1000</td>
<td>-£0.8</td>
</tr>
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</tr>
<tr>
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</tr>
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<td>-1400</td>
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<td>2700</td>
<td>-£2.2</td>
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</tbody>
</table>

Annual average | 300 | £0.5 | -1400 | £0.6 | 2000 | -£1.6 |

Present value | -£4.1 | £5.6 | £13.8 |

Table E.7: Estimated volume and benefits of additional orders breached

<table>
<thead>
<tr>
<th>Year</th>
<th>Best estimate</th>
<th>Net impact (£m)</th>
<th>Lower bound</th>
<th>Net impact (£m)</th>
<th>Upper bound</th>
<th>Net impact (£m)</th>
</tr>
</thead>
<tbody>
<tr>
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<td>300</td>
<td>£1.2</td>
<td>-300</td>
<td>£1.5</td>
<td>800</td>
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</tr>
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<td>1</td>
<td>400</td>
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<td>-200</td>
<td>£1.4</td>
<td>1000</td>
<td>£0.7</td>
</tr>
<tr>
<td>2</td>
<td>600</td>
<td>£0.9</td>
<td>-100</td>
<td>£1.3</td>
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<tr>
<td>3</td>
<td>700</td>
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<tr>
<td>5</td>
<td>1000</td>
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<td>6</td>
<td>1100</td>
<td>£0.6</td>
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<td>£1.1</td>
<td>1900</td>
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</tr>
<tr>
<td>7</td>
<td>1100</td>
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<td>200</td>
<td>£1.0</td>
<td>2000</td>
<td>£0.0</td>
</tr>
<tr>
<td>8</td>
<td>1200</td>
<td>£0.5</td>
<td>300</td>
<td>£1.0</td>
<td>2100</td>
<td>-£0.1</td>
</tr>
<tr>
<td>9</td>
<td>1300</td>
<td>£0.4</td>
<td>300</td>
<td>£1.0</td>
<td>2200</td>
<td>-£0.1</td>
</tr>
</tbody>
</table>

Annual average | 900 | £0.7 | 100 | £1.2 | 1600 | £0.3 |

Present value | £6.5 | £10.4 | £2.5 |

77) The total IPNA breach unit cost, including costs to police, practitioners, HMCTS, and LSC, is lower than those for the ASBO and interim ASBO. This explains why the best estimate has an increase in the volume of breaches but a decrease in cost of breaches in comparison to the baseline. These savings fall to all agencies involved in the breach hearings of Injunction to prevent nuisance and annoyances; anti-social behaviour practitioners (e.g. local authorities), registered social landlords, police, and LSC. There will also be savings for HM Prisons and the probation service but it has not been possible to quantify these as will be explained later.

78) Tables E.6 and E.7 combine to show that, under the best estimate scenario, there is an average net benefit of £0.2 million each year as a result of implementing the injunction to prevent nuisance and annoyance. This reflects savings as a result of a greater role for the County Court under Option 2, with ASBOs on application becoming County Court injunctions. Under the lower bound scenario, where duplication between current orders is assumed to be greater, net benefits of implementing the Injunction to prevent nuisance and annoyance are greater at an average of £1.8 million each year. Under the upper bound scenario, where assumed duplication is lower, we estimate an annual net cost of £1.4 million.

79) The risks and sensitivity analysis section below presents estimates of the number of additional orders that would have to be issued and breached for the savings presented in Tables E.6 and E.7 to be reduced to zero. Table E.8 presents the annual average costs per agency of introducing the injunction to prevent nuisance and annoyance.

16 Negative volumes and benefits represent additional costs rather than additional benefits.
Table E.8: Estimated average net impact of implementing Injunction to prevent nuisance and annoyance, by agency

<table>
<thead>
<tr>
<th></th>
<th>Best estimate (£m)</th>
<th>Lower bound (£m)</th>
<th>Upper bound (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>-£0.1</td>
<td>£0.2</td>
<td>-£0.4</td>
</tr>
<tr>
<td>Practitioners</td>
<td>-£0.7</td>
<td>£0.1</td>
<td>-£1.6</td>
</tr>
<tr>
<td>HMCTS</td>
<td>-£0.2</td>
<td></td>
<td>-£0.3</td>
</tr>
<tr>
<td>CPS</td>
<td>£0.5</td>
<td>£0.5</td>
<td>£0.5</td>
</tr>
<tr>
<td>LSC</td>
<td>£0.7</td>
<td>£1.1</td>
<td>£0.3</td>
</tr>
<tr>
<td>Total</td>
<td>£0.2</td>
<td>£1.8</td>
<td>-£1.4</td>
</tr>
</tbody>
</table>

**Non-quantifiable benefits**

80) In having a purely civil order, the police and other local agencies will be able to act quickly to protect victims and communities from ongoing anti-social behaviour and prevent the harm to victims and communities from escalating. By replacing the stand alone ASBO with a civil injunction with civil sanctions for breach, this will mean that behaviour will only need to be proved to the civil standard, reducing the time taken to gather evidence and the court time required. In addition, using the simpler test of ‘nuisance or annoyance’ as opposed to ‘harassment, alarm or distress’, is likely to speed up the evidence gathering process. We are not able to quantify these benefits at this time.

81) By bringing support and prohibitions into the same order the paperwork needed in producing separate applications will be reduced (as only one application would be required). As for the Criminal Behaviour Order, there are benefits associated with the use of positive requirements to change the behaviour of defendants and potentially reduce reoffending, but it has not been possible to quantify these benefits. 51 per cent of respondents to the consultation, who answered our question about impacts of positive requirements on reoffending in relation to the Injunction to prevent nuisance and annoyance, thought that reoffending would decrease.

82) The injunction also offers a more proportionate, preventative response than the stand-alone ASBO as it carries a civil sanction – people who breach their injunction will face serious consequences, but will not be criminalised. We have not quantified the potential benefits this could have in terms of improved life chances for those – particularly young people – who commit anti-social behaviour as part of a transitional phase in their lives.

**Risks and sensitivity analysis**

83) The lower threshold of evidence for the injunction to prevent nuisance and annoyance than for the ASBO on application and Interim ASBO could lead to an increase in use of the Injunction to prevent nuisance and annoyance in comparison to the do nothing option. While the best estimates are presented in Table E.6 and E.7 above, a sensitivity analysis was conducted to establish how many orders would have to be issued, above those estimated, in order for the savings estimated to be reduced to zero. This analysis looks at the cost of issuing additional IPNAs as well as any breaches associated with those additional injunctions issued\(^{17}\). The analysis suggests that, in the best estimate scenario, an additional 130 orders would need to be issued each year and the estimated proportion breached\(^{18}\) for the savings as a result of implementing the IPNA to be reduced to zero. This equates to approximately three per cent of the orders issued each year in the baseline scenario. Due to the lack of data availability cited previously in this section, these figures are liable to overestimate the true number of additional orders needed to be issued in order to reduce estimated savings to zero. This is because we have not been able to quantify the costs relating to the disposal outcomes of the injunction to prevent nuisance and annoyance.

84) Feedback in the consultation raised risks that the positive requirements may impose additional costs, however these will be mitigated by ensuring that the only positive requirements that can be imposed are those suggested by the relevant authority (on the basis of what it deems affordable and necessary to address the behaviour in questions). This may risk positive requirements not being used very often, particularly while local authority budgets remain reduced as part of the deficit reduction programme. However, there are funding streams that could be accessed to pay for positive

\(^{17}\) Calculated by applying the breach assumptions stated earlier in this appraisal.  
\(^{18}\) For the upper and lower bounds respectively.
requirements if deemed appropriate locally, for example, budgets which Police and Crime Commissioners (PCCs) may hold, and money available for dealing with troubled families.

85) The midpoint of the ASBO on application and ASBI breach rates may prove not to be the best proxy for the injunction to prevent nuisance and annoyance breach rate. The inclusion of positive requirements together with the expansion of the applicants to organisations that cannot threaten housing related sanctions on breach could mean that breach rates experienced are higher than expected. Similar sensitivity analysis was conducted on the Injunction to prevent nuisance and annoyance breach rate as was completed on the criminal behaviour order breach rate with the lower bound estimated using a breach rate 10 percentage points lower than our best estimate, and the upper bound estimated using a breach rate 10 percentage points higher. The results were presented in Table E.6 and E.7 above. There is also a risk that the cost of prosecuting their own breaches will cause problems for applicant authorities used to using ASBOs on application at present19. This risk will be mitigated by the fact that the order will be cheaper and easier to get initially and could also make breach proceedings more efficient, as the CPS would not need to be brought up to speed on an order applied for by a different agency.

86) Savings generated in these scenarios are as a result of fewer orders issued in comparison to the baseline, do nothing option. There are also some savings generated because Injunction to prevent nuisance and annoyances are less costly to issue or on breach than either ASBOs or Interim ASBOs. These savings could be reduced, particularly for the CPS, if local authorities choose to prioritise use of the criminal behaviour order over the injunction to prevent nuisance and annoyance. We have not been able to predict how local authorities will choose to use these new powers so costs and benefits have been assessed based on current usage of the ASBO on conviction, ASBO on application, and ASBI.

87) There is a risk that the new injunction to prevent nuisance and annoyance is used more by practitioners than the powers it is set to replace. However, we believe the likelihood of this to be low. We would expect the use of informal interventions in most cases to tackle anti-social behaviour and guidance will make it clear on when it is proportionate and necessary to use the Injunction to prevent nuisance and annoyance. We will carry out post-legislative scrutiny 3-5 years after Royal Assent. We will also monitor the impact of the proposals on all stakeholders on implementation to better understand any associated costs and benefits. The new College of Policing will also be identifying and disseminating examples of best practice to the police in tackling crime anti-social behaviour.

88) The lower burden of proof of the Injunction to prevent nuisance and annoyance as compared to the ASBO on application could lead to an increase in the number of Injunctions applied for. This could lead to increased costs for ASB practitioners, HMCTS, and LSC. There is no evidence to suggest whether local authorities are currently unable to obtain ASBOs on application because the burden of proof is higher.

19 As an ASBO breach is prosecuted by the CPS, whereas ASBI breaches are prosecuted by the applicant as it is not a criminal offence.
### 2.c): Introduce a dispersal power

**Current police powers (the ‘do nothing’ option)**

<table>
<thead>
<tr>
<th>Order</th>
<th>Court to get the order</th>
<th>Advance designation required?</th>
<th>Age range</th>
<th>Test</th>
<th>Breach</th>
<th>Burden of proof on breach</th>
<th>Max sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dispersal order (section 30 ASB Act 2003)</td>
<td>N/a</td>
<td>Evidence of serious and persistent ASB must be proved in the area, and local authority sign-off is required</td>
<td>10 and over</td>
<td>Reasonable grounds for believing that the presence or behaviour of a group of two or more persons in the relevant locality has resulted, or is likely to result, in any members of the public being intimidated, harassed, alarmed or distressed</td>
<td>Magistrates’ Court, Youth Court</td>
<td>Beyond reasonable doubt</td>
<td>(a) a fine not exceeding level 4 on the standard scale, or (b) imprisonment for a term not exceeding 3 months, or to both.</td>
</tr>
<tr>
<td>Direction to leave (section 27, Violent Crime Reduction Act 2006)</td>
<td>N/a</td>
<td>None</td>
<td>10 and over</td>
<td>That the presence of the individual in that locality is likely, in all the circumstances, to cause or to contribute to the occurrence of alcohol-related crime or disorder in that locality, and that the direction is necessary</td>
<td>Magistrates’ Court, Youth Court</td>
<td>Beyond reasonable doubt</td>
<td>a fine not exceeding level 4 on the standard scale</td>
</tr>
</tbody>
</table>

### Introduce a Dispersal Power

| Dispersal powers | N/a | None | 10 and over | Reasonable grounds for suspecting that the person’s behaviour is contributing or is likely to contribute to ASB\(^1\) or crime or disorder in the area and that the direction is necessary. Failure to comply is an offence. | Magistrates’ Court, Youth Court | Beyond reasonable doubt | (a) a fine not exceeding level 4 on the standard scale, or (b) imprisonment for a term not exceeding 3 months, or to both. |
| Dispersal powers (confiscation) | N/a | None | 10 and over | A constable may confiscate any item which has been or is likely to be used to cause anti-social behaviour. Failure to comply is an | Magistrates’ Court, Youth Court | Beyond reasonable doubt | a) a Level 2 fine or |

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\(^1\) Defined as ‘harassment, alarm or distress’
offence.
Introduce a dispersal power

90) The main changes between the ‘do nothing’ option and Option 2, for dispersal powers, are that:

i) There would be no requirement to pre-designate an area in advance before the power could be used (unlike the current dispersal order under section 30 of the Anti-Social Behaviour Act 2003);

ii) There would be no requirement for alcohol to be present (unlike the current ‘direction to leave’ under section 27 of the Violent Crime Reduction Act 2006);

iii) The presence of a group would not be part of the test for dispersal, instead, the decision as to whether to disperse an individual would rely on their behaviour and its impact on others; and

iv) The new directions power would include a power to confiscate any item which is being used to cause anti-social behaviour (e.g. alcohol). This is in addition to existing powers to seize items being used to commit a criminal offence.

91) In addition, following recommendations from the HASC, we will require use of the dispersal power to be signed off by a police inspector.

Costs

92) Breach of a direction will be a criminal offence, as will failure to hand over confiscated items.

93) The unit cost of the dispersal power is approximately £10, requiring 15 minutes of police officer time to ask a person over the age of 10 to leave a specific area.\(^1\) This cost would only be relevant if there are additional volumes of powers used in comparison to the baseline. Authorisation by an inspector will be required to use the dispersal power. We assume that this requires no more than 15 minutes of their time and cost approximately £16. In many circumstances the inspector will give prior approval for the dispersal power to be used in a certain geographic locality for a period of up to 48 hours. The inspector could alternatively give authorisation each time the dispersal power is used. We would still expect this to require up to 15 minutes of the inspector’s time. This cost is relevant for every use of the dispersal power, even if the volume of powers used does not increase in comparison to the baseline. However we expect both costs to be realised as opportunity costs as they reflect diverted resource rather than cash costs.

94) We are not able to estimate the volume of the new dispersal powers as no data are available for the current use of the Directions to Leave power, or volumes of people moved on from a dispersal zone as this data is not collected centrally. We expect there will be a significant increase in the use of the dispersal powers after implementation due to the simplification and the removal of the need to designate a dispersal zone, and this was supported by the responses received on this issue in the consultation.

95) Breach of the dispersal power is a criminal offence. The breach rate of the dispersal power is not known and there is no useful proxy as breach rates for both current dispersal powers are also unknown. Therefore we have not estimated any additional costs that might result from an increased volume of breaches.

Impacts by organisation

96) The following individuals/sectors are likely to be affected by the proposals:

i) Police: These changes would reduce costs on the police as there would be no requirement to pre-designate an area in advance.

ii) Local authorities: Costs would be reduced for local authorities as they do not have to sign off any pre-designation of areas.

iii) Registered Providers of social housing: There would be no change in comparison to the baseline.

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\(^1\) Unit cost used is the cost of a police officer’s time. This is based on ASHE (Annual Survey of Hours and Earnings) and CIPFA (Chartered Institute of Public Finances and Accounts) data from 2008 and includes on costs. Costs have been uprated to account for inflation using HM Treasury GDP deflator series but they underlying data have not been updated. Costs presented are in 2010/11 prices. The cost of one hour of a police officer’s time (ranked sergeant or below) is approximately £40.
iv) **Probation service:** There would be no change in comparison to the baseline as the maximum sentence for breach of the new order would be a three month custodial sentence (as is currently the case) so probation would not be involved in breaches (either in the ‘do nothing option’ or ‘Option 2’).

v) **Her Majesty’s Courts and Tribunals Service (HMCTS), Youth Offending Teams (YOTs), Legal Services Commission and the Crown Prosecution Service (CPS):** The only potential cost is if an increase in volumes of directions given led to an increase in breaches or appeals. However, as neither breach rates nor appeals rates for the current dispersal powers are known, it has not been possible to quantify this cost.

### Non-quantifiable benefits

97) There are considerable savings to be made from the removal of the need to designate a dispersal zone. There are savings of approximately £1,100\(^2\) to be made on each Dispersal Zone that under the proposals would not have to be designated. However, as the current volume of Dispersal Zones designated is not known, as it is not collected centrally, we have not been able to quantify the total savings falling to the police and local authorities.

98) Another key benefit of removing the requirement to designate an area (a ‘Dispersal Zone’) in advance is that there is no longer the need to go through a process of gathering evidence of ‘serious and persistent’ anti-social behaviour and getting the agreement of the local authority. This would mean police officers and Police Community Support Officers (PCSOs) could quickly deal with emerging trouble spots before anti-social behaviour could get to the stage of being ‘serious and persistent’.

99) The confiscation element of the new power may result in benefits of anti social behaviour if it is used to reduce the risk of such outcomes occurring (e.g. by removing alcohol).

### Net Effect of Proposal 2.c)

100) The quantified costs are £10 per incident where the new dispersal power replaces the old powers and £16 for an inspector to authorise dispersal while the quantified benefits are £1,100 per designation of Dispersal Zone no longer required. Unfortunately the costs and benefits cannot be directly compared because each Dispersal Zone can be associated with many Dispersal Orders in the baseline. There are no data on the average number of current Dispersal Orders used per Dispersal Zone but it is possible that this average could be big enough that the quantified costs might outweigh the quantified benefits. Nevertheless, the unquantified benefits of this proposal, i.e. improved effectiveness in tackling ASB, are potentially large meaning that the true net present value of proposal 2.c) could well be positive.

### Risks

101) The dispersal power could be used at the discretion of front-line police officers (and PCSOs if delegated by the Chief Constable), and consultation feedback was that this could lead to a risk of some officers using the power disproportionately or indiscriminately. In order to mitigate this risk, it is proposed that use of the dispersal will require prior authorisation by an inspector. Directions will be issued in writing (if this is not reasonably practicable the direction can be issued orally and a written record kept by the officer), and data will be published locally, in order to address any concerns over disproportionate use with particular groups. Some interest groups, including Barnardo’s and a few other respondents to the consultation highlighted a risk that the new power could increase the risk to vulnerable children (e.g. by returning them to an abusive home environment, or moving them from one area to another that was less safe). This applies as much to the existing regime as to our proposal, and addressing the issue in the legislation would be likely to undermine our aim of reducing bureaucracy. We plan to mitigate this risk through the accompanying guidance and our wider safeguarding work to deliver our commitments in the Child Sexual Exploitation Action Plan.

### Net benefits of implementing Option 2

\(^2\) Including police and local authority time necessary for designating a dispersal zone. This is likely to be an underestimate due to the often lengthy and complicated processes required by some local authorities. For simplicity 21 hours of police time (including 1 hour of superintendent time) and 12 hours of local authority time are assumed to be required but this is thought to be the lower bound.
The best estimate of the net benefits across all groups are presented in table E.9 below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Net impact (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>£1.2</td>
</tr>
<tr>
<td>1</td>
<td>£0.8</td>
</tr>
<tr>
<td>2</td>
<td>£0.6</td>
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<td>-£0.3</td>
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<tr>
<td>9</td>
<td>-£0.4</td>
</tr>
<tr>
<td><strong>Average annual</strong></td>
<td><strong>£0.2</strong></td>
</tr>
<tr>
<td><strong>Present value</strong></td>
<td><strong>£2.3</strong></td>
</tr>
</tbody>
</table>

The net benefits turn to net costs over time because the volume of Injunction to prevent nuisance and annoyances is estimated to increase over time in comparison to the baseline, slowly increasing the costs over time.

The best estimate represented here is assuming no additional criminal behaviour orders are issued in comparison to the baseline, while the volume of Injunction to prevent nuisance and annoyances issued is the midpoint of two scenarios presented earlier in the appraisal section. Sensitivity analysis has been carried out and results can be found in Tables E.3-E.7. The estimated NPV of £2.3 million reflects a balance between present value costs of £8.9 million and benefits of £11.2 million as a result of implementing Option 2. This is a slight increase in total costs\(^3\) compared to previous estimates as we have incorporated HASC recommendations into the modelling and this has additional costs. Benefits have also decreased as a result.

Costs fall to the police (£1.1m, present value) and anti-social behaviour practitioners (£6.1m, PV) and HMCTS (£1.7 million, PV) while savings fall to the CPS (£4.8m, PV) and the LSC (£6.4m, PV). Costs and benefits arising from Option 2 are largely as a result of introducing the injunction to prevent nuisance and annoyance, with less duplication of orders and a greater role for the County Court leading to net benefits. No additional costs or benefits are estimated following the introduction of the criminal behaviour order and it has not been possible to estimate any costs or benefits for the introduction of the dispersal power.

**One-In-Two-Out (OITO)**

This policy is not within the scope of One-In-Two-Out.

**F. Risks**

The specific risks associated with each part of the policy are outlined under the relevant heading in Section E above. In addition, there is limited and uncertain evidence underlying the above costs and benefits. This means that estimates are highly dependent on the assumptions made, all of which may be different in reality. Hence the actual costs could be higher or lower.

There a number of general risks associated with the assumptions made in Section E, particularly:

i) practitioner estimates of how long the application process for each order take may not be accurate;

ii) despite the anecdotal evidence gathered suggesting there would be no appeals, additional orders and breach hearings could be appealed which would increase expected costs;

iii) the increased burden on individuals subject to anti-social behaviour powers, through the inclusion of positive requirements, could lead to a higher breach rate than currently observed which could increase the expected costs;

\(^3\) Previous estimate of net benefit was £8.6 million present value, a balance between costs of £4.5 million and benefits of £13.1 million.
iv) estimates of the reduction in volumes of orders issued (Injunction to prevent nuisance and annoyances compared to ASBOs and Interim ASBOs) are overestimates. This would result in savings being reduced;
v) current pressures on resources are not felt over the entire appraisal period which could lead to more orders being issued which would reduce the expected benefits of this policy. This is thought to be unlikely as it is not thought that this is currently the primary factor affecting the decision to apply for an order;
vii) use of the new powers may increase following introduction as was seen after the introduction of the ASBO. While this could increase costs and reduce savings, it is thought to be unlikely as there will not be the same pressure to on local authorities to use the powers as there was following the introduction of the ASBO;
viii) appeal court rulings which change the way that the legislation is used on the ground (as occurred through the McCann ruling on the ASBO in 2002). We are mitigating that risk by publishing the Bill in draft so that there is time for those who use the legislation at the moment to scrutinise our detailed proposals and ensure they are clear;
ix) the introduction of PCCs could mean that police forces are directed to increase their use of the orders proposed in this impact assessment. This is a risk associated with the introduction of PCCs, which would effect both the baseline and Option 2 in this Impact Assessment but could potentially lead to errors in the analysis presented in this modelling; and
x) local authorities may change their use of the new powers, including preferring use of the CB O to the IPNA. This could lead to inaccuracies in the costs and benefits presented, particularly in the case of savings attributed to the CPS. As it is not possible to predict how practitioners will choose to use the new tools, the estimates presented remain the best estimates of the impact of the implementation of Option 2.

G. Enforcement

109) Enforcement of this policy will be by the local authorities, police and courts, with oversight from the Home Office. 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

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

<table>
<thead>
<tr>
<th>Table H.1 Costs and Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option</td>
</tr>
<tr>
<td>--------</td>
</tr>
<tr>
<td>2</td>
</tr>
</tbody>
</table>

Costs to
1. Police (£1.1m, PV), HMCTS (£1.7m, PV) and anti-social behaviour practitioners (£6.1m, PV). Uncertainties over the future volumes of the new orders which may or may not result in additional costs.
2. It has not been possible to quantify the impact of the potential increase in positive requirements which could increase costs.

Benefits to
1. Crown Prosecution Service (£4.8m, PV) and Legal Services Commission (£6.4m).
2. It has not been possible to quantify the impact of the potential decrease in reoffending as a result of introducing positive requirements. This could increase benefits.

Source: Home Office and Ministry of Justice data

111) For the reasons set out in Section E above, our preferred option is Option 2. This option best meets our stated aims of reducing the size of the toolkit, reducing bureaucracy and cost and dealing with persistent anti-social behaviour and criminality.
I. Implementation

112) We are proposing a radical streamlining of the anti-social behaviour toolkit. This is a broad and wide-ranging simplification of a complex area of law, which spans many current Acts of Parliament and which affects the work of a number of agencies, in particular social landlords, the police and local authorities. It is vital for communities and for victims that we get this right first time.

113) We would then propose to publish consolidated guidance on the new legislation to help assist with transitional costs and training, including advice on the application process to ensure reductions in bureaucracy are retained.

J. Monitoring and Evaluation

114) We propose collecting data on use of the criminal behaviour order and the injunction to prevent nuisance and annoyance through court data returns. Certain changes to court data collection systems can be made within existing service changes, and so can be done at no cost. As data is already collected on ASBOs via court data systems, it should be straightforward to change data collection fields to the new orders following commencement (given the long lead-in time to prepare, as new orders are unlikely to be commenced until 2014). Manual data collection can also be established via the County Court (as court systems are different to the magistrates courts) building on current ASBO data collection, and conversations are ongoing as to costs in this area. With sufficient lead-in times, HM Courts and Tribunal Service have advised that they are unlikely to be significant.

115) We will require the data on numbers of directions to leave issued to be published locally, to address any concerns over disproportionate use with particular groups.

116) We are also developing options for providing a platform for the publication of this and other additional anti-social behaviour data on www.police.uk.

117) We will carry out post-legislative scrutiny 3-5 years after Royal Assent. We will also carry out a post-implementation review once the first set of statistics on use of the new orders have been published in order to consider whether a policy has achieved its objectives, to what extent success criteria have been met and whether there have been unintended consequences. To inform this we will seek the views of stakeholders including local authorities, the police, the Crown Prosecution Service, representatives from HMCTS and registered social landlords.

118) 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

119) We sought feedback on our proposals as part of an open and inclusive 14 week consultation which gave the public, practitioners, victims and interest groups the opportunity to have their say on our proposals. We have also continued informal consultation with practitioners to get feedback post-consultation as the policy developed. The consultation sought views and opinions on the reform proposals from a wide audience base.

120) As the legislation goes through Parliament, 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.

1.2 Age, disability, gender, gender identity, race, religion, sexual orientation, and socio-economic indicators are all potentially relevant factors in anti-social behaviour policy regarding both perpetrators and victims, and the Government’s proposed reforms reflect this where appropriate. In particular, we have looked to address some long-standing concerns about the impact of anti-social behaviour on young people, and on people with mental health issues. We have also looked to address concerns about the impact of anti-social behaviour itself on people with disabilities.

1.3 Regarding perpetrators, Home Office research has identified two key types. Firstly, those whose anti-social behaviour is ‘transitional’, committed when the individual is adapting to a specific life change (e.g. adolescence, moving out of the family home, following a divorce etc). Typically, these perpetrators tend to respond to informal interventions, such as warnings.

1.4 The second, much smaller group, comprises those whose behaviour is persistent and ‘entrenched’, partly as a result of underlying factors such as substance abuse, mental health issues or a dysfunctional family background. These perpetrators’ behaviour has a much higher impact in terms of both the harm caused to victims and the community, and they tend not to respond even to repeated formal interventions (e.g. repeatedly breaching an ASBO despite custodial sentences).

1.5 There is recognition among professionals that much of the most serious ASB is committed by a persistent minority of people with deep-rooted problems. However, take-up of the supportive orders originally intended to help people address those problems has been very low. For example, only 8 per cent of ASBOs issued to young people since 2004 had a supportive order attached. As a result, one common criticism of the current system is that, by imposing restrictions on the behaviour of that persistent minority without support to address underlying problems, those individuals are being ‘set up to fail’. One of the key themes of our reforms, therefore, is to give practitioners the discretion to use informal measures for the majority, whilst ensuring that the powers to deal with the most serious anti-social behaviour can more effectively address the underlying causes.

Other equality issues – young people

1.6 The Crime Survey for England & Wales (CSEW) has measured perceptions of ASB for a number of years using ‘proxy’ questions about how much of a problem a range of different types of behaviour are in the local area, including ‘teenagers hanging around on the streets’.

1.7 These proxy indicators and the one about teenagers (which is clearly not, in itself, indicative of anti-social behaviour) do not provide detailed information of the actual experience of victims of ASB. To address this, we developed and piloted new questions which have been included in the CSEW from April 2011. These explore the public’s actual experiences of ASB. The new questions will provide a richer source of contextual information on people’s experiences of ASB, their interaction with police and local authorities and the impact the behaviour has had on their quality of life.

1.8 Results from the first 12 months of interviews will be available for publication later in 2012. Responsibility for the publication of Crime Statistics has now passed to the Office for National Statistics and they will give consideration to when and how such data will be published.

Other equality issues – mental health

1.9 There are strong links between anti-social or criminal behaviour and certain health needs. There is a high risk that once someone with those health needs comes into contact with the Youth or Criminal Justice System, they will become locked into a recurring cycle of criminality and punishment. This

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4 The survey was previously called the British Crime Survey, and the name was changed from 1 April 2012 to better reflect the coverage of the survey.
cycle will have a significant impact on both their life chances, and on the people and community around them.

1.10 As a result, the Department of Health and Ministry of Justice have been working to develop a system of ‘liaison and diversion’ which looks to balance the interests of the victim and protection of the public with the needs of the offender. The principle of liaison and diversion is to assess an offender’s health needs and any vulnerabilities as early as possible after they start to exhibit offending behaviour. This means that decisions about any treatment needed to address underlying issues can sit alongside decisions on appropriate punishment, with the ultimate aim of preventing a pattern further of offending and protecting the public.

1.11 We are currently developing a liaison and diversion service for adults and young people at a number of sites around the country. These pathfinder sites are being used to build up evidence of the effect of these services on both health and reoffending outcomes, with the aim being to have services in place nationwide by November 2014. As part of the work to develop a national model of liaison and diversion, a number of sites will be given development funding to explore ways of intervening earlier. There are two sites that are receiving funding from April 2012 which will be exploring the potential for extending liaison and diversion to those young people who are known to be involved in ASB. This work will run for two years and will be evaluated.

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, though positive requirements may help individuals to deal with underlying health problems causing their 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.