

Title: Terrorism Prevention and Investigation Measures Lead department or agency: Home Office - OSCT Other departments or agencies:	Impact Assessment (IA)
	IA No: HO 0042
	Date: 17/05/2011
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
Contact for enquiries:	

Summary: Intervention and Options

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

The Coalition Agreement contained a commitment to review control orders as part of a wider review of counter-terrorism measures, legislation and programmes. A control order can currently be made against an individual whom the Secretary of State has reasonable grounds for suspecting is or has been involved in terrorism-related activity, if she considers that it is necessary to make a control order imposing obligations on that person for purposes connected with protecting the public from a risk of terrorism. Control orders have had some success in protecting the public from a risk of terrorism, but have proved controversial because they can impose intrusive restrictions on individuals who in most cases will not have been convicted of a terrorism offence, on the basis of closed material.

What are the policy objectives and the intended effects?

The new measures are intended to be more focused and targeted, and to provide greater safeguards for the civil liberties of suspected terrorists subject to the measures than has been the case under control orders, whilst continuing to protect the public. The intention is to repeal the control orders legislation and replace it with an alternative system. This will allow the imposition of restrictions on an individual whom the Secretary of State reasonably believes is or has been involved in terrorism-related activity, for purposes connected with protecting members of the public from a risk of terrorism. The new system will be complemented by an increase in funding for the police and Security and Intelligence Agencies to enhance their investigative capabilities.

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

The following policy options have been considered:

- Option 0: Do nothing (baseline). Retain control orders with no changes.
- Option 1: Repeal control orders without any replacement.
- Option 2: Replace control orders with Terrorism Prevention and Investigation Measures (TPIMS)

Option 2 is the preferred option. In civil liberties terms, it is less intrusive than Option 0 and, compared against Option 1, provides a more balanced solution by improving civil liberties whilst providing additional resources to maintain National security and strengthen investigative capability.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** Month/2012

What is the basis for this review? Duty to review. **If applicable, set sunset clause date:** Month/Year

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

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) the benefits justify the costs.

Signed by the responsible Minister:

Date:

Summary: Analysis and Evidence

Policy Option 1

Description:

Repeal control orders without any replacement.

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

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

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

The repeal of control orders is not expected to generate any monetised costs and for these purposes it has been assumed that no new money will be allocated to fill any gaps that may arise.

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

There would be an increase in the risk of terrorism from the repeal of control orders without their replacement. This would be partly mitigated by the reallocation of existing investigative and disruptive resources against some of those individuals who would otherwise have been subject to control orders. It has not been possible to monetise the impact this may have on other counter-terrorism investigations that share the same resources.

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

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

The costs of running and enforcing the control orders system would be removed from Home Office, Police, Security and Intelligence Agencies, Ministry of Justice & Courts and Legal Services Commission (although some legacy legal costs would remain and could take a few years as cases work through the system).

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

The key non-monetised benefits are the increased civil liberties of those that would have been subject to control orders.

Key assumptions/sensitivities/risks

It is assumed that the number of cases in which a control order would have been imposed were they not repealed will remain small. If fluctuations in the number of such cases were to approach the higher end of the estimated range, it would place particular strain on the resources available to provide the alternative investigative and disruptive capabilities.

Discount rate (%) 3.5

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: None	Benefits: None	Net: None	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		United Kingdom			
From what date will the policy be implemented?		01/01/2012			
Which organisation(s) will enforce the policy?		Home Office, Police, Security and Intelligence Agencies			
What is the annual change in enforcement cost (£m)?		Unknown			
Does enforcement comply with Hampton principles?		Yes			
Does implementation go beyond minimum EU requirements?		N/A			
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A		Non-traded: N/A	
Does the proposal have an impact on competition?		No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?		Costs: N/A		Benefits: N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	Yes	14
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	Yes	14
Justice system Justice Impact Test guidance	Yes	14
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Summary: Analysis and Evidence

Policy Option 2

Description:

Replace control orders with Terrorism Prevention and Investigations Measures (TPIMS)

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

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

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

The costs of administering and enforcing the new system of terrorism prevention and investigation measures will be similar to the costs associated with the system of control orders that will be repealed.

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

The removal or reduction of the more restrictive control order obligations, and the introduction of the two-year time limit, would place some limits on the ability of the Police and Security and Intelligence Agencies to manage subjects using the measures. However, the provision of increased resources to the Police and Security and Intelligence Agencies would mitigate this by enhancing their investigative capability.

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

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

It has not been possible to monetise the benefits that arise from this option since most of them concern the increased civil liberties of those that would have been subject to control orders.

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

The policy intention behind the changes is to rebalance the approach taken to protecting the public from the small number of suspected terrorists who cannot be prosecuted or deported. This would be achieved by increasing the safeguards around use of the power, and the civil liberties of those subject to the power, consistent with the need to protect the public. These safeguards and civil liberties benefits are the primary driver for this option even though they cannot be monetised.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

It is assumed that the number of cases will continue to remain small. If fluctuations in the number of cases were to approach the higher end of the estimated range it would place strain on the resources required to provide the alternative investigative and disruptive capability.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: None	Benefits: None	Net: None	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		United Kingdom			
From what date will the policy be implemented?		01/01/2012			
Which organisation(s) will enforce the policy?		Home Office, Police, Security and Intelligence Agencies			
What is the annual change in enforcement cost (£m)?		Unknown			
Does enforcement comply with Hampton principles?		Yes			
Does implementation go beyond minimum EU requirements?		N/A			
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A		Non-traded: N/A	
Does the proposal have an impact on competition?		No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?		Costs: N/A		Benefits: N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

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Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	Yes	14
Justice system Justice Impact Test guidance	Yes	14
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Review of Counter Terrorism and Security Powers, CM8004, Jan 2011
2	Review of Counter Terrorism and Security Powers Equality Impact Assessment, CM8006, Jan 2011
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0	0	0	0	0	0	0	0	0	0
Annual recurring cost	0	0	0	0	0	0	0	0	0	0
Total annual costs	0	0	0	0	0	0	0	0	0	0
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	0	0	0	0	0	0	0	0	0	0
Total annual benefits	0	0	0	0	0	0	0	0	0	0

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

Control orders were introduced in 2005 as emergency legislation. They were designed to address the threat from a small number of people engaged in terrorism in this country whom the Government could neither successfully prosecute nor deport. The objective of the orders was to prevent these individuals engaging in terrorist-related activity by placing a range of restrictions on their activities, including curfews, restrictions on association and access to communications equipment and, in some cases, relocation.

The Coalition Agreement contained a commitment to review control orders as part of a wider review of counter-terrorism measures, legislation and programmes. A control order can currently be made against an individual whom the Secretary of State has reasonable grounds for suspecting is or has been involved in terrorism-related activity, if she considers that it is necessary to make a control order imposing obligations on that person for purposes connected with protecting the public from a risk of terrorism. Control orders have had some success in protecting the public from a risk of terrorism, but have proved controversial because they can impose intrusive restrictions on individuals who have not necessarily been convicted of an offence, on the basis of closed material.

It has been the policy of successive Governments not to publish details of funding for the Security and Intelligence Agencies disaggregated beyond their total allocation voted by Parliament for National Security reasons. Therefore, the elements of costs associated with the Security and Intelligence Agencies cannot be set out in this document.

A.2 Groups Affected

Those currently subject to the powers of control orders will be affected by this policy. For example, this comprised 10 people on 10 March 2011.

B. Rationale

The current threat from terrorism is as serious as we have faced at any time, and will not diminish at any point soon. The Government's absolute priority is to prosecute and convict suspected terrorists in open court but this is not always possible. The review of counter-terrorism and security powers (Cm 8004, Jan 2011) has concluded that, for the foreseeable future, there is likely to be a small number of people who pose a real threat to our security but who cannot be prosecuted or, in the case of foreign nationals, deported. It would not be responsible to allow these individuals to go freely about their terrorist activities, and there will continue to be a need for powers to protect the public from the threat they pose. Whilst the aim of control orders was to provide such powers, the Government has concluded there is a need to ensure that the powers are less intrusive. The rationale for this policy is therefore to make these powers more focused and targeted and to provide greater safeguards for the civil liberties of those subject to the measures than is the case under control orders.

C. Objectives

The review concluded that the existing control order system is not as effective as it could be and that arrangements could be put in place that would balance risk while increasing civil liberties.

The policy objective is therefore to repeal control orders and replace them with a new system of Terrorism Prevention and Investigation Measures (TPIMs) that is less intrusive and more focused.

The regime will involve more targeted measures, intended to allow the individual to continue to lead a normal life subject only to restrictions necessary to prevent or restrict their involvement in terrorism-related activity.

The policy aims to have greater safeguards and clearer limits to the obligations that can be imposed, for example: a higher legal threshold for imposition of the new measures; an overall time limit for the imposition of the measure without evidence of further terrorism-related activity; and more limited obligations – no relocation without consent, no lengthy curfews; no total ban on the use of communications equipment; and no geographical boundary restrictions.

To mitigate the decrease in the level of assurance resulting from the changes to the policy, there will be increased investigative resources for the police and Security and Intelligence Agencies.

D. Options

The following policy options have been considered:

Option 0 - Do nothing (baseline). Retain control orders with no changes.

Option 1 - Repeal control orders without any replacement.

Option 2 - Replace control orders with Terrorism Prevention and Investigation Measures (TPIMS)

Option 2 is the preferred option. In civil liberties terms, it is less intrusive than Option 0 and, compared against Option 1, provides a more balanced solution by improving civil liberties whilst providing additional resources to maintain National security and strengthen investigative capability.

E. Appraisal (Costs and Benefits)

General Assumptions and Data

- The do nothing option is used as the baseline. For each of the other options the associated costs and benefits are assessed in terms of the change with respect to the baseline.
- Since the aim of the policy is to give a greater level of freedom for individuals subject to the measures to lead a normal life, subject only to restrictions necessary to prevent or restrict their involvement in terrorism-related activity, the benefits need to be considered in terms of increases in the civil liberties of those affected by the obligations imposed under control orders. However, their quantification is difficult for a number of reasons:
 - The obligations imposed under a control order will vary, sometimes significantly, throughout the life of the order.
 - For example, the same individual may have at different times been relocated and not relocated; may have subject to both a long and a short curfew (and possibly no curfew at all); may have had both tight restrictions on visitors to his home and pre-arranged meetings outside it and no such restrictions at all; may have both been allowed no access to a computer or the internet and been allowed an internet-connected computer in his home, and so on.
 - There is potentially a very wide range of statistical information about control orders that could be recorded; however this is not all collated where the information would not seem likely to be useful in the management of the system, or to fulfil the Secretary of State's statutory reporting requirements. It is therefore not possible to collate detailed information in respect of all aspects of all control orders ever in force.
- The civil liberties benefits are particularly difficult to evaluate since they span a wide range of different areas, for example:
 - Increasing the threshold of the legal test that must be satisfied before measures can be imposed;
 - Allowing greater freedom to meet and communicate with others;

- Allowing greater access to computers and the internet;
 - Ending the use of lengthy curfews and replacing with a more flexible requirement to remain at the individual's normal residence overnight;
 - Allowing limited overnight stays at other locations; and
 - Removing the power to re-locate individuals to another part of the country against their will.
- The level of benefit realised will depend on the individual circumstances of those that are affected. For example, those with families may derive different levels of benefits compared with those who are single with no dependents. It is particularly challenging to identify consistent measures or indicators of such improvements. Ideally, all the benefits would be monetised so as to provide a common means of comparison but this has not been possible across the range of civil liberties benefits that arise. For example, the monetised value that society places on an hour of liberty is difficult to define and the views of different members of society vary widely from one individual to another.

Option 1 – Repeal control orders without any replacement

Policy Costs (excluding OIOO)

The threat posed by some of the individuals who would otherwise have been subject to control orders would need to be managed in some alternative way, which would have a cost associated with it. The particular actions necessary would be an operational matter for the law-enforcement and security agencies, and such decisions would depend on the circumstances of each particular case at the time. Such operational costs – as well as being highly speculative – are sensitive and insofar as they can be estimated it would not be in the public interest to publish them. We can however say, in general terms, that the cost of covert investigation is significantly greater than the cost of control orders.

There would be an increase in risk to the public, as the suspected terrorists currently subject to control orders would be free of restriction. Some but not all of this risk may be managed through alternative investigative or disruptive means. This would have an impact on risk beyond those who would have been subject to control orders – as existing resources would be spread more thinly across all terrorist investigations.

There would potentially be a decrease in the civil liberties of the public – including the right to life – if an individual who would otherwise have been subject to a control order was able to continue his involvement in terrorism-related activity.

Administrative Burdens (excluding OIOO)

There is no additional administrative burden. Any actions necessary to manage the threat posed by some individuals who would otherwise have been subject to control orders would be implemented through the current administration practices and these would remain unchanged.

Policy Costs (OIOO)

The policy cost to Private sector is negligible.

Administrative Burdens (OIOO)

N/A

TOTAL COSTS

As no new money would be spent once control orders are repealed there are no monetised costs for Option 1. This assumes that a decision would not be taken to increase the investigative resources available to the police and Security and Intelligence Agencies to mitigate the increased risk from repealing control orders entirely. For these purposes we have assumed that no such extra resources would be provided.

Policy Benefits (excluding OIOO)

The costs of running and enforcing the system would be removed. There would be some residual costs of judicial proceedings associated with the current and former control order cases (relating to ongoing reviews and appeals) but once completed there would be an ongoing saving.

There would be a significant increase in the civil liberties of those currently subject to the powers (10 individuals as at 10 March 2011), as they would no longer be subject to control order obligations. Although there would be no new money to implement actions to balance any increase in risk, the reallocation of existing resources may mean some of those affected become the subject of other investigations or disruptions as part of a strategy for managing the threat they pose in the absence of control orders. Therefore, in some cases, the increase in civil liberties would be balanced to an extent by an increase in other forms of intrusion.

Administrative Savings (excluding OIOO)

The costs of administering the system would be removed. This comprises staff and administrative costs to the Home office.

Policy Benefits (OIOO)

N/A

Administrative Savings (OIOO)

N/A

TOTAL BENEFITS

It has not been possible to monetise total benefits since they primarily concern civil liberties.

Option 2 – Replace control orders with Terrorism Prevention and Investigations Measures (TPIMS)

Policy Costs (excluding OIOO)

The operational processes required for the law-enforcement, security and intelligence agencies to monitor the individuals and their compliance with a TPIM are likely to be greater as the regime will be less restrictive/disruptive, so providing more freedom to the individuals (which will require greater resources to monitor). Related to this, a significant new cost is the additional resources that will be provided to the police and Security and Intelligence Agencies to strengthen investigative capacity – this is expected to be many millions of pounds annually and will be new money (from the existing Home Office reserve budget and from HMT) for this CSR period.

There would be some diminution in the controls on subjects from the removal or reduction of the more restrictive control order obligations, and from the introduction of the two-year time limit. This would be mitigated by increased resources for the Police and Security and Intelligence Agencies to enhance their investigative capabilities which – although not a direct cost of the policy - will complement the new system.

Administrative Burdens (excluding OIOO)

Although there will be significant differences to the new system of TPIMs, these changes are unlikely to have significant changes in costs associated with them. The processes involved in running the new system will be similar to those for the existing control orders system. For example it is envisaged that the same number of Home Office staff will be involved in administering it and the judicial processes involved will be the same. Some small benefits may accrue, for example, there should be less administrative burden associated with considering requests to modify obligations that will no longer be available under the new system.

Policy Costs (OIOO)

The policy cost to Private sector is negligible.

Administrative Burdens (OIOO)

N/A

TOTAL COSTS

The cost of administering and enforcing the new system of terrorism prevention and investigation measures will be similar to the costs associated with the system of control orders that will be repealed. The new system will be complemented by an increase in funding for the Police and Security and Intelligence Agencies to enhance their investigative capabilities.

Policy Benefits (excluding OIOO)

The policy intention behind the changes is to rebalance the approach taken to protecting the public from the small group of suspected terrorists who cannot be prosecuted or deported. This would be achieved by increasing the safeguards around use of the power, and the civil liberties of those subject to the power, consistent with the need to protect the public.

There are a range of civil liberties benefits that come about through TPIMs being more focussed than control orders, with a narrower range of measures available and less stringent restrictions on for example communications equipment or association. Although control orders have been found by the courts to be fully compliant with human rights, TPIMs will provide additional safeguards to ensure the restrictions imposed do not breach the rights of those subject to the measures. Additionally, the power to make derogating control orders will be removed. All these provide an increase in the civil liberties of those affected, although it has not been possible to quantify or monetise this.

Whilst TPIMs makes improvements in civil liberties which have an impact on national security, additional resources form a complementary part of this option so as to mitigate risk and strengthen the prospects of prosecution.

Administrative Savings (excluding OIOO)

Repealing control orders and replacing them with TPIMs removes the ability to enforce compulsory relocations in most circumstances (it will for example be possible to require an individual to reside in Home Office provided accommodation in their home area if they are otherwise homeless). Due to variations in the costs of each relocation, as a result of the varying circumstances of each case, it is not possible to provide a detailed estimate of the actual savings that might accrue.

Policy Benefits (OIOO)

N/A

Administrative Savings (OIOO)

N/A

TOTAL BENEFITS

It has not been possible to monetise the total benefits since they primarily concern civil liberties.

F. Risks

Option 1 – Repeal Control Orders without any Replacement

If fluctuations in the numbers of cases approached the higher end of the estimated range it would place particular strain on the resources required to manage the risk by alternative investigative and disruptive means.

Option 2 – Replace control orders with Terrorism Prevention and Investigations Measures (TPIMS)

If fluctuations in the numbers of cases approached the higher end of the estimated range it would place strain on the additional investigative resources provided as part of the policy.

G. Enforcement

The enforcement of Control Orders is conducted by the Police and Security and Intelligence Agencies and they will continue to fulfil the enforcement role for the Terrorism Prevention and Investigation Measures. As these enforcement costs form just part of their wider operational funding, it is not possible to specify exactly how much might be saved through the repeal of Control Orders, or what the net change might be when TPIMs replace them.

H. Summary and Recommendations

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

Option	Costs	Benefits
1	£/year	£/year
	Un-quantified Cost to UK population through increased risk of terrorism	Un-quantified Benefits to Civil liberties of those that were [or would have been] subject to control orders and savings in associated running and enforcement costs
2	£/year	£/year
	Un-quantified Cost of additional resources to strengthen investigative capability	Un-quantified Benefits to Civil liberties of those that were or would have been subject to control orders. Un-quantified benefit through increased investigative capacity and strengthened prospects of prosecution.
Source:		

Option 2 is the preferred option. Compared with Option 0, Do Nothing, it improves the civil liberties of those subject to control orders imposed by introducing greater safeguards and by imposing less intrusive and more focused obligations. Whilst Option 1 significantly improves the civil liberties of those that would otherwise be subject to control orders, it does so at the expense of National security. Option 2 provides a more balanced solution by improving civil liberties whilst providing additional resources to maintain National security and strengthen investigative capability. Although Option 2 has a relatively low level of monetised benefits compared with its associated costs, it must be recognised that the majority of Option 2's benefits concern the restoration of civil liberties and these are significantly larger than can be portrayed by the monetised total.

I. Implementation

The current control orders regime will be repealed on commencement of the TPIMs legislation, and in any case will expire on 31st December 2011. The Government therefore plans to implement these changes before 31st December 2011 so that the new TPIMs regime will be in place from no later than 1st January 2012.

J. Monitoring and Evaluation

The effectiveness of the new regime would be monitored through a statutory obligation on the Secretary of State to provide quarterly reports to parliament on her exercise of the powers during each period, and to appoint an independent reviewer to review the operation of the legislation in respect of each calendar year.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p>
<p>Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]</p> <p>There is no plan to conduct a PIR since the new regime will be monitored through a statutory obligation on the Secretary of State to provide quarterly reports to parliament on her exercise of the powers during each period, and to appoint an independent reviewer to review the operation of the legislation in respect of each calendar year.</p>

Annex 2. Specific Impact Tests

Statutory Equality Duties

Equality Impact Assessment

The equality impact of the repeal and replacement of control orders was addressed in the Review of Counter-Terrorism and Security Powers Equality Impact Assessment (Cm 8006, January 2011). There have been no changes to the policy which would change the assessment.

Social Impacts

Human Rights

The Prevention of Terrorism Act 2005 provides a power for Derogating control orders to be made by the courts. These last 6 months at a time but are capable of renewal. Although no derogating order has ever been made, they allow for conditions which amount to deprivation of liberty under Article 5 ECHR (in particular this could include very lengthy curfews). The repeal of control orders removes the power to derogate from the ECHR in this way.

Justice

The introduction of new legislation for TPIMs may prompt new legal action to challenge it. Historically, there has been a consistently high level of litigation of control orders and this may be expected to continue under TPIMs. There may be a slight increase in litigation upon the introduction of TPIMs as new case law is established.