

<b>Title:</b> Swift and Sure Justice: the Government's Plans for Reform of the Criminal Justice System <b>IA No:</b> <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> Home Office, AGO	<b>Impact Assessment (IA)</b>					
	<b>Date:</b> xx/xx/2012					
	<b>Stage:</b> Development/Options					
	<b>Source of intervention:</b> Domestic					
	<b>Type of measure:</b> Command Paper					
<b>Contact for enquiries:</b> Criminal Justice Reform White Paper team						
<b>Summary: Intervention and Options</b>					<b>RPC Opinion:</b> RPC Opinion Status	

Cost of Preferred (or more likely) Option					
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?		Measure qualifies as
£m	£m	£m	Yes/No	£m	In/Out/zero net cost

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

There is evidence of inefficiency and ineffectiveness within the criminal justice system:

- cases take too long to progress through the system;
- there is too much tolerance of delay and long drawn out proceedings;
- there is wide regional variation in many aspects of performance, for instance the proportions of cracked and ineffective trials;
- there is concern about the potential inconsistent use of some disposals, particularly out-of-court sanctions;
- there are questions over the appropriateness of the venue where cases are dealt with;
- a large proportion of prosecutions dealt with in the magistrates' courts are low level, uncontested cases;
- criminal justice procedures are complex, time-consuming and paper based;
- accountability for the delivery of criminal justice services is fragmented;
- communities have little or no say in how services are delivered;
- public confidence in the effectiveness and fairness of the criminal justice system is low;
- the public has little understanding of the work of the criminal justice system and very little access to information about how well it is performing; and
- there is a lack of transparency which makes it extremely difficult for the public to hold the system and those who work within it to account.

**What are the policy objectives and the intended effects?**

The reforms in this White Paper focus on the areas where the work of the criminal justice agencies overlaps, and are designed to :

- create a swift and sure system of justice; and
- make criminal justice more transparent, accountable and responsive to local needs.

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

Option 0: Do nothing  
 Option 1: Flexible criminal justice system  
 Option 2: Streamlined Forensic Reporting (SFR)  
 Option 3: Justice Test and oversight of out-of-court sanctions  
 Option 4: Reconnecting justice with communities  
 Option 5: Re-conceiving summary justice  
 Option 6: Retaining more cases in the magistrates' courts  
 Option 7: Increase the use of video technology across the criminal justice system  
 Option 8: Broadcasting court proceedings and publishing information about criminal justice performance

These options are not mutually exclusive.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> Month/Year					
Does implementation go beyond minimum EU requirements?				Yes / No / N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes/No	<b>&lt; 20</b> Yes/No	<b>Small</b> Yes/No	<b>Medium</b> Yes/No	<b>Large</b> Yes/No

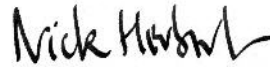
What is the CO<sub>2</sub> equivalent change in greenhouse gas emissions?  
(Million tonnes CO<sub>2</sub> equivalent)

Traded:

Non-traded:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:



Date: 12/07/2012

## Summary: Analysis &amp; Evidence

## Policy Option 1

## Description:

## FLEXIBLE CRIMINAL JUSTICE SYSTEM

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

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

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

Proposals include magistrates' courts sitting from 8:30 am for Prison Court Video Link hearings; reducing the number of defendants requiring transport to court; trials being conducted in the magistrates' court on a weekend; and later evening sittings in magistrates' courts to deal with those who might otherwise be detained in police custody overnight, including the use of video link technology.

1. There may be costs to HMCTS estimated to be around £200-£300 for every extra hour a court is open.
2. Prison receptions would need to be open for additional hours for some of the proposals, creating a cost for the National Offender Management Service (NOMS), potentially in the region of £100 per hour.
3. The technology set-up and running costs for those pilots which are taking forward the specific proposals on increasing the use of Virtual Courts may be in the region of £50,000 for set-up, £10,000 per annum in running costs, assuming any pilots equip one police station with video technology. The cost of operating the Virtual Court will be met within current operational budgets.

Staff costs may represent the value of time and may not represent financial costs in any pilots depending on the extent to which volunteers are used.

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

Staff costs may represent the value of time and may not represent financial costs in any pilots.

1. Some staff may welcome the opportunity to work more flexibly. However, if pilots are successful and indicate a move towards wider rollout, this is likely to require changes to the terms and conditions of staff working in the criminal justice system.
2. There may be costs to practitioners through changes to their day-to-day working practices and remuneration for out of hours working. For example, increasing hours in a court and paying court and CJS agency staff accordingly, (both traditional and virtual courts) may incur costs. Saturday and Sunday courts might incur additional costs from overtime costs for CJS agencies which will be assessed and considered. This may also include YOTs (if youth cases were to be included in any pilot) and the probation service.
3. For flexible and extended hours, there might be an impact on the small/medium sized business sector via the impact on legal firms, including potentially an impact on the Criminal Bar and Junior Bar. It is possible that members will in some instances need to work longer hours.
4. Where the Virtual Court is used, there may be an additional cost to legal aid if MoJ retains the non-means tested fee for first hearings conducted via video-link (i.e. all first hearings may receive legal aid). This may be partially offset by the lower fixed fee for Virtual Court cases that finish at the first hearing (£150 outside London and £200 in London compared to £170 outside London and £220 in London). It is not possible to say with any degree of certainty what the cost to the legal aid fund of the flexible court pilots is likely to be.
5. If the pilots succeed in getting cases through court more quickly and there is a backlog to be worked through, then there would be a short term and one off increase in volumes. This risks short-term increase in costs to:
  - the legal aid fund
  - Prisoner Escort Contract Services (PECS)
  - NOMS (if there is a short term increase in volumes being sent to prison)

The size of this cost is contingent on the increase in the volume of cases going through and size of any backlog.

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

RESTRICTED DRAFT

<b>High</b>	N/Q		N/Q	N/Q
<b>Best Estimate</b>	N/Q		N/Q	N/Q
<b>Description and scale of key monetised benefits by 'main affected groups'</b>				
<b>Other key non-monetised benefits by 'main affected groups'</b>				
<ol style="list-style-type: none"> <li>1. Extending sitting hours could offer a choice in flexible working patterns, which could be attractive to victims, witnesses, Magistrates and other CJS staff.</li> <li>2. Extending sitting hours might negate the need to hold as many defendants in police custody overnight and allow an opportunity to quickly deal with more straightforward guilty plea cases.</li> <li>3. Creating regional Virtual Courts could allow greater efficiency savings by combining area resources to hold one evening court to hear first hearings (again focusing on cases charged after a cut-off time to be determined locally).</li> <li>4. Maximising the use of Prison to Court Video Links in extended opening hours could lead to further efficiency savings, whilst also streamlining processes and freeing up time for other matters to be dealt with later in the day.</li> <li>5. Aim to deliver efficiency savings for the whole system costs across the CJS including: for example, PECS cost savings due to a reduction in prisoner movements (as a result of the operation of the Virtual Court and increased use of PCVL); Improved utilisation of court time.</li> <li>6. Where the Virtual Court is used in cases where a defendant is bailed rather than kept in custody, there may be a reduction in the Failure to Appear rate. This would benefit the police in terms of not having to enforce as many court appearances.</li> </ol>				
<b>Key assumptions/sensitivities/risks</b>				<b>Discount rate (%)</b>
<ol style="list-style-type: none"> <li>1. The regional virtual court may impact on the magistracy, as it would involve magistrates hearing cases outside their traditional local justice areas. However legislation is already in place to allow magistrates to be assigned to deal with cases outside their local justice area (Courts Act 2003) and directions may be required relating to the distribution of court business.</li> <li>2. Although costs may not be additional financial costs in the pilot, they may become additional financial costs if the Flexible CJS proposal becomes business as usual.</li> <li>3. As noted in costs, if the pilots succeed in getting cases through court more quickly and there is a backlog to be worked through, then there would be a short term and one-off increase in volumes, which may cause a short term increase in costs.</li> </ol>				

**BUSINESS ASSESSMENT (Option 1)**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: N/Q	Benefits: N/Q	Net: N/Q	Yes/No	IN/OUT/Zero net cost

## Summary: Analysis &amp; Evidence

## Policy Option 2

## Description:

## STREAMLINED FORENSIC REPORTING (SFR)

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/Q	High: N/Q	Best Estimate: N/Q
<b>COSTS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Cost (Present Value)</b>
Low	N/Q		N/Q		N/Q
High	N/Q		N/Q		N/Q
Best Estimate	N/Q		N/Q		N/Q
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
<b>Other key non-monetised costs by 'main affected groups'</b>					
<ol style="list-style-type: none"> <li>There will be implementation costs to the police when setting up SFR processes, but these are expected to be minimal.</li> <li>There is potential for SFR to increase early guilty pleas which may create short-term increases in costs to NOMS as a result of potential increases to the prison population.</li> </ol>					
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Benefit (Present Value)</b>
Low	N/Q		N/Q		N/Q
High	N/Q		N/Q		N/Q
Best Estimate	N/Q		N/Q		N/Q
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
<ol style="list-style-type: none"> <li>SFR has been developed in the Metropolitan Police force area, which has been testing it since 2010. London data indicates that: cases are being processed with less risk of discontinuance; cases appear to have an improved chance of a successful prosecution; the early guilty plea rate for 'in-scope' cases has improved; the cracked trial/plea on date of trial rate has been improved; and the number of cases requiring further forensic evidence has reduced for 'in-scope' cases.</li> <li>There is evidence to suggest that wider implementation of SFR across England and Wales would be beneficial. SFR could make the CJS more efficient and effective, by improving the chances of a successful prosecution, driving up early guilty plea rates, reducing the risk of the case being discontinued, which in turn reduces associated time delays and costs. Any increase in speed and early guilty pleas may improve victim and witness satisfaction.</li> <li>Defendants have also benefited from SFR implementation as the defence is informed of forensic evidence at a much earlier stage of the case, therefore allowing them to assess and advise the defendant appropriately.</li> </ol>					
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>
<ol style="list-style-type: none"> <li>Whilst defence practitioners may benefit from earlier access to forensic evidence, this may be offset by a reduction in fees received.</li> <li>We would expect any costs to be more than offset by any efficiency savings made through the reduction of unnecessary requests for forensic analysis and case building.</li> </ol>					

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/Q	Benefits: N/Q	Net: N/Q	Yes/No	IN/OUT/Zero net cost

## Summary: Analysis &amp; Evidence

## Policy Option 3

## Description:

## JUSTICE TEST AND OVERSIGHT OF OUT-OF-COURT SANCTIONS

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

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

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

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

1. The Justice Test is designed to be a checklist of principles the professional should consider in exercising his or her discretion rather than mandatory criteria that must be satisfied. It will therefore promote professional discretion, and should not introduce additional bureaucracy.
2. The costs attached to devising the Justice Test and out-of-court sanctions framework will be limited, particularly as they are being developed through an existing ACPO work programme. Once the framework has been finalised there will be a cost for police training and for publication of materials, which we would expect local police forces to meet. A more thorough assessment of the financial implications will be undertaken as the policy is developed.

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

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

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

1. The Justice Test, together with a revised framework on out-of-court sanctions, might serve as a way of achieving cultural change that will move decision makers away from compliance with internal targets and towards an approach that seeks to achieve the most appropriate outcome in a particular case.
2. A simple Test would also tie in with the wider approach to transparency, making it easier for the public to understand how decisions are reached. It would also ensure out-of-court sanctions are used appropriately, therefore addressing any concerns about their inappropriate use. This may improve victim and witness satisfaction.
3. The Justice Test could potentially save police time by making things more straightforward rather than requiring police officers to use disproportionate effort when dealing with relatively low-level crime.
4. We are working with practitioners to develop a simplified, National Framework for out-of-court sanctions (encompassing both youth and adult systems) which will provide clarity on their use and streamline processes as far as possible.

## Key assumptions/sensitivities/risks

Discount rate (%)

1. The Justice Test will be designed to avoid an increase in bureaucracy.
2. There is a risk that changing the use of out-of-court sanctions for repeat offenders could impact on costs to the CJS.
3. The aim of this policy is not to remove particular cases from the courts but rather to improve decision making and effective use of out of court sanctions. If there is an impact on the number of cases that are disposed in or out-of-court, this would affect costs.

RESTRICTED DRAFT

**BUSINESS ASSESSMENT (Option 3)**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
<b>Costs:</b> N/Q	<b>Benefits:</b> N/Q	<b>Net:</b> N/Q	Yes/No	IN/OUT/Zero net cost

## Summary: Analysis &amp; Evidence

## Policy Option 4

## Description:

## RECONNECTING JUSTICE WITH COMMUNITIES

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

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

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

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

1. The cost of establishing and convening Neighbourhood Justice Panels is being borne by local areas from within existing budgets.

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

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

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

1. Local areas have been given a wide discretion in how they develop Neighbourhood Justice Panels in their areas. Panel models will therefore vary across the country, taking account of local needs. They will involve representatives from the local community in finding restorative solutions to problem behaviours, and will in most cases include some form of reparation to the victim, and potentially to the wider community. We believe that an apology, and swift, visible reparation have the potential to improve victim and community confidence in the CJS – the precise impact is hard to qualify at this stage. We will be measuring victim satisfaction and community confidence as part of an evaluation of Neighbourhood Justice Panels.
2. Panels may also achieve a reduction in future offending behaviour. Previous evaluations of restorative justice have suggested that it can reduce the frequency of reoffending. We will explore whether we are able to measure any impact on future offending as part of our evaluation.
3. The use of panels may help to address concerns about the use of simple out-of-court sanctions, while addressing problem behaviours without unnecessarily criminalising people. Tackling problems at an early stage before behaviour becomes so serious that it results in a criminal record is particularly important for young people.

## Key assumptions/sensitivities/risks

## Discount rate (%)

1. Areas setting up panels will need to make efforts to ensure that their panel reflects the diversity of the local community it serves, and to mitigate the risk that it disadvantages or proves inaccessible to any specific community or social group.
2. It is assumed that panels will deal primarily with cases involving anti-social behaviour or low-level offending which previously would either not have been addressed, or the police would otherwise have given an immediate informal sanction or a simple caution.
3. It is assumed that the perpetrator must admit responsibility for their behaviour before a referral to a panel is possible. A referral has to be agreed by both the victim and perpetrator, and both must agree to the resolution reached.

## BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:				In scope of OIOO?	Measure qualifies as		
Costs:	N/Q	Benefits:	N/Q	Net:	N/Q	Yes/No	IN/OUT/Zero net cost



# Summary: Analysis & Evidence

# Policy Option 5

Description: RE-CONCEIVING SUMMARY JUSTICE  
FULL ECONOMIC ASSESSMENT

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

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

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

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

1. The costs of this policy are contingent on how the process(es) would work. We intend to use the period following publication of the White Paper to work up detailed options and their associated costs and benefits.
2. The policy intention is to simplify the process, so if this objective is met costs of dealing with these cases should fall. However further detail is required before any estimates can be made on costs.
3. There will be set-up and training costs associated with implementing any new process.

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

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

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

1. The intention is to apply a more local, swifter approach, improving public confidence and involving less cost and bureaucracy.
2. The benefits of this policy are contingent on how the process(es) would work. We intend to use the period following publication of the White Paper to work up detailed options and their associated costs and benefits.
3. Further detailed work is required to establish the extent to which removing these cases from the traditional court process and dealing with them in a different way would release capacity and reduce back office and administrative costs.
4. There may be a saving in the costs of magistrates' expenses including travel. However, this could be offset by travel costs if magistrates sit in many more venues. Currently around £10m per annum is spent on magistrates' expenses though it is not clear how much, if any, of this could be saved.
5. Some magistrates may have their time freed up for other purposes.

Key assumptions/sensitivities/risks	Discount rate (%)
<p>1. The proposal identifies that there are a large volume of low level, uncontested cases being dealt with in the magistrates' courts, including :</p> <ul style="list-style-type: none"> <li>• Cases such as unruly behaviour, shoplifting and criminal damage offences, which have an impact on the quality of life in communities; and</li> <li>• Regulatory cases such as not having a TV licence, road tax evasion and failing to pay rail fares. In most cases, the defendant rarely engages in the process and they are usually dealt with on paper with a penalty, for example, a fine, imposed.</li> </ul> <p>We will continue to look at which of these cases are suitable to be prosecuted directly by the Police (without input from the CPS), and which are suitable to be dealt with by a single magistrate (instead of a bench of two or three).</p> <p>2. As with any case allocation process, there is a small risk that some inappropriate cases will be misallocated to single magistrates. Were this to happen, it would mean cases incur an additional hearing, which is likely to represent additional cost. With this in mind, we will work to ensure an effective case filter – i.e. a means of identifying the types of causes which are suitable. Costs and benefits are contingent on which cases would be involved and how any new process would work in practice. We intend to use the period following publication of the White Paper to work up detailed options and their associated costs and benefits.</p> <p>3. There is no reason to believe that using single magistrates would be more expensive than using 3 magistrates, however costs and benefits will depend on the type of cases the process is used for and how cases dealt with by single magistrates are processed.</p>	

**BUSINESS ASSESSMENT (Option 5)**

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/Q	Benefits: N/Q	Net: N/Q	Yes/No	IN/OUT/Zero net cost

## Summary: Analysis &amp; Evidence

## Policy Option 6

## Description:

## RETAINING MORE CASES IN THE MAGISTRATES' COURTS

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

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

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

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

1. There may be costs to legal aid providers through reduced income from the legal aid fund as fees for the same cases in magistrates' courts are lower than in the Crown Courts.
2. There may be costs to magistrates' courts from the increased workload caused by retaining more cases in the magistrates' court unless these are absorbed within the current sitting days/hours.
3. There may be downstream costs associated with a greater number of cases being dealt with in magistrates' courts. There is the risk of a small increase in prison demand resulting from potentially more severe sentences (within their six-month maximum) in the magistrates' courts but we do not have any unequivocal evidence to suggest this would be the case. If there were to be increased demand for prison places as a result of more severe sentencing in magistrates' courts, it might be mitigated by savings from those currently receiving more than six months in cases below the threshold, which (being reclassified as summary only) would receive a maximum of six months. Any effect would be likely to be on a small number of cases.

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

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

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

1. There are potential legal aid savings to MoJ through the magistrates' court rather than Crown Court rates being paid for some cases.
2. HMCTS: potential capacity released in the Crown Court could lead to savings if there is a reduction in Crown Court capacity (beyond anything that is already planned) and no back-filling of freed up Crown Court space.
3. CPS: Cases tried in the Crown Court incur higher costs than those in the magistrates. For example, the costs to the CPS of a Crown Court guilty plea are higher than in a magistrates' court, although these costs have not yet been quantified.
4. Victims and witnesses may benefit from cases being finalised more quickly.

## Key assumptions/sensitivities/risks

## Discount rate (%)

1. No change in defendant behaviour in electing where proceedings should take place in either way cases. If, however, the restrictions on magistrates led to more defendants electing for trial by jury in these cases, the benefits of this reform would be reduced and might not be realised.
2. Any savings are contingent on other policy and operational decisions (e.g., there would need to be a reduction in Crown Court capacity (beyond that which is already planned), for example a reduction in sitting days, and no back-filling of freed up Crown Court space.

**BUSINESS ASSESSMENT (Option 6)**

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT/Zero net cost
N/Q	N/Q	N/Q		

## Summary: Analysis &amp; Evidence

## Policy Option 7

## Description:

## INCREASE THE USE OF VIDEO TECHNOLOGY ACROSS THE CJS

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

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

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

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

- Video links might be used for interviewing prisoners under the Police and Criminal Evidence Act 1984, however further work would be required to identify appropriate safeguards, particularly in respect of providing access to legal advice or an interpreter. Amendments to the Police and Criminal Evidence Act 1984 (PACE) and its codes of practice would be required to enable video interviews.
- There may be some investment required in equipping Police stations and prisons to conduct interviews however Police Forces are already being encouraged to invest in video link technology as part of the roll-out of Live Links so there may be no additional costs from this policy.
- There may also be some investment required in equipping the courts to support increased business by video links. Some investment is already planned by HMCTS. It is not yet clear whether additional investment above that will be required.

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

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

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

- Introducing these changes (includes making applications for search warrants, interviewing prison inmates, applications for warrants of further detention/extensions and allowing video evidence to be used routinely in trials) should save time and reduce resourcing burdens on the police, courts and prisons saving money and increasing efficiency however it is too early to quantify this.

## Key assumptions/sensitivities/risks

Discount rate (%)

- Work is already underway through the CJS Efficiency Programme to modernise and increase productivity of the CJS through streamlined digital working and increased use of video link technology. Existing legislation has been introduced piecemeal before the potential for using video technology was available and we will explore whether this is preventing the full realisation of what could be achieved.
- The benefits are contingent on the size and speed of rollout of video investment.
- Costs will be offset by savings in Police Officer time but would need to do further analysis to support this. Data may not currently be collected on the numbers of instances where interviewing of prisoners is carried out.

## BUSINESS ASSESSMENT (Option 7)

Direct impact on business (Equivalent Annual) £m:				In scope of OIOO?	Measure qualifies as		
Costs:	N/Q	Benefits:	N/Q	Net:	N/Q	Yes/No	IN/OUT/Zero net cost

## Summary: Analysis &amp; Evidence

## Policy Option 8

## Description:

## BROADCASTING COURT PROCEEDINGS AND PUBLISHING INFORMATION ABOUT CRIMINAL JUSTICE PERFORMANCE

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

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

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

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

- The broadcasters have agreed to fund the costs of introducing court broadcasting, and they will therefore incur costs for equipment, maintenance, and resources. There may be some potential resource costs for HMCTS from broadcasting, and to other Criminal Justice System agencies from data capture and release from increased transparency.

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

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

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

- It is not possible to present the benefits in monetised form at this stage.
- It is likely that the broadcasters will benefit from increased viewers for court broadcasting, or may be able to reduce expenditure on other coverage. There is evidence that a "knowledge gap" of the Criminal Justice System has some impact on low levels of public confidence, and therefore by increasing the amounts of types of information available to the public, confidence in the Criminal Justice System may increase. This would benefit Criminal Justice System agencies and the public.
- The proposals may result in improved engagement with the CJS and increase public understanding of the court process.

## Key assumptions/sensitivities/risks

## Discount rate (%)

- We have assumed that there will be no impact on the public purse from introducing broadcasting from courts. There is a risk that there may be negligible resource implications for HMCTS, although we plan that the broadcasters will also cover these.
- There are risks around increased release of data, and associated privacy implications, particularly around the potential for identification of individuals if different datasets are looked at together.

## BUSINESS ASSESSMENT (Option 8)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/Q	Benefits: N/Q	Net: N/Q	Yes/No	IN/OUT/Zero net cost

## Evidence Base (for summary sheets)

### Introduction

1. This impact assessment accompanies the Ministry of Justice's White Paper: *Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System*. The White Paper can be found at [www.justice.gov.uk](http://www.justice.gov.uk). This impact assessment is an assessment of the reforms set out in the White Paper.
2. The reforms are:
  - Flexible criminal justice system. Ensuring more flexibility in the availability and ways of working of the courts and criminal justice agencies;
  - Streamlined forensic reporting. Producing forensic evidence proportionate to the needs of the case;
  - Justice Test and oversight of out-of-court sanctions. Introducing a Justice Test to help police officers decide the appropriateness of using out-of-court sanctions, and which ones to use;
  - Reconnecting justice with communities. Using Neighbourhood Justice Panels to involve community representatives in finding restorative solutions to anti-social behaviours and low level offending;
  - Re-conceiving summary justice. Explore the potential to introduce new powers for magistrates to act alone in uncontested cases, potentially in locations away from traditional courts;
  - Retaining more cases in the magistrates' courts: Proposals to ensure that, where appropriate, less serious cases are determined in the magistrates' courts;
  - Increase the use of video technology across the criminal justice system; Explore the potential and case for simplifying existing legislation to permit video evidence to be used routinely for victims and witnesses in criminal proceedings;
  - Broadcasting in court proceedings and publishing information about criminal justice performance; Increasing availability and accessibility of justice system data and proposals to extend broadcasting of judges' sentencing remarks to proceedings in the Crown Court.

### Problem under consideration

3. This White Paper sets out the Government's plans for reform of the criminal justice system.

4. The criminal justice system is large and complex. Criminal cases are handled by multiple agencies through a variety of processes and procedures. The police, Crown Prosecution Service (CPS), magistrates' courts and Crown Court all dispose of cases with the possibility of increasingly punitive means, depending on the severity and complexity of the crime. In 2011, over 0.4 million offenders received out-of-court sanctions. There were 1.56 million proceedings in magistrates' courts and the Crown Court sentenced over 0.1 million cases which had been committed for trial or sentence.<sup>1</sup> The complexity of this system has an impact on all those who take part, whether as victims, witnesses or defendants, as well as professionals within the system and the public, on whose behalf the services are provided.
  
5. Despite the huge increase in the resources invested in criminal justice services over the last decade, the criminal justice system has failed to deliver better outcomes for victims, and the public. The criminal justice system has cumbersome processes that tolerate waste and delay; it is old fashioned and has outdated infrastructure and ways of working that suit the system, rather than the public. It is opaque, failing to engage properly with and reflect public priorities. Victims of crime feel marginalised in a system that has built up around the needs of offenders and their lawyers, and that their views are not taken into account when critical decisions are taken. Those who use, and those who work within, the criminal justice system, will recognise too often that lengthy and bureaucratic processes are the main causes of delay and inefficiency. Professionals do not feel empowered to change them and we have not adapted to modern ways of working.
  
6. The reforms in the White Paper set out to tackle these problems by:
  - creating a swift and sure system of justice; and
  - making it more transparent, accountable and responsive to local needs.

## **Detailed problems**

### **Complex and bureaucratic processes**

7. The complexity and bureaucracy leads to lengthy delays and long drawn out proceedings. Although there have been a series of reforms in recent years aimed at tackling the causes of these problems they appear to have had little impact on the length of proceedings, and there is little transparency as to why some cases take longer than others, or where and why decisions are taken which affect this.
  
8. One way in which the efficiency of the courts can be measured is through the timeliness of cases taken through the courts. In 2011, it took on average 154 days (or just over 5 months) from an

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<sup>1</sup> Ministry of Justice (2012), *Criminal Justice Statistics, Quarterly Update to December 2011*



offence to sentence, an increase of 2% compared with 2010<sup>2</sup>. It may therefore be the case that cases such as, for example, shoplifting, are not being dealt with swiftly enough. Currently these cases take on average 38 days from charge to completion - 50% of cases take longer<sup>3</sup>. If we could address this, we estimate that the time saving would be 25 days, bringing the average time from charge to completion for these cases to just 13 days.

9. The HMIC Report *Stop the Drift* (2010) found that the average domestic burglary case had over 1,000 steps (activities and form filling). It also suggested that the criminal justice system was insufficiently digitised, relying heavily on the use of paper.<sup>4</sup>

## Reaching the right outcome

10. In recent years, a matter of particular concern has been the rise in the use of out-of-court sanctions. This was, we believe, encouraged by the need to meet central targets and the introduction of new administrative disposals. But in some cases, it appeared that little consideration was given to whether it would be an effective way of dealing with crime.
11. Between 2003/4 and 2007/8, volumes of these sanctions rose by over 150%, and although they have subsequently reduced, they were still 75% higher in 2010/11 compared with 2003/4.<sup>5</sup> This raised concerns, particularly among the judiciary that they were being used inappropriately.
12. During 2009/10, the Ministry of Justice undertook a review,<sup>6</sup> which found that the majority of out-of-court sanctions appeared to be administered appropriately. Although some concerns persist (for example, the recent report of the Criminal Justice Joint Inspection on exercising discretion<sup>7</sup>), we do not believe that there is widespread misuse of these sanctions, and we are broadly satisfied that in the majority of cases they provide an effective punishment and deterrent to crime. However, it appears that in a small number of cases, there may be some inappropriate use of these sanctions, which continues to cause public unease. This unease has been exacerbated by the lack of transparency in this area and by the sense that police action, in dealing with low-level crime in particular, has too often been driven by centrally-imposed targets rather than local priorities.

## A lack of flexibility and the need for more professional discretion

13. Waste and delay is often associated with a lack of flexibility in how cases are dealt with.

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<sup>2</sup> *Judicial and Court Statistics 2011*, Ministry of Justice, June 2012. (Please note: timeliness data is only available from April 2010. Consequently, 2010 estimates are based on data from April to December 2010.)

<sup>3</sup> Provisional statistics on the timeliness of criminal court cases, Ministry of Justice, July 2012.

<sup>4</sup> See The HMIC Report "Stop the Drift" (2010) paragraph 30, bullet 4.

<sup>5</sup> Home Office (2011), *Crimes detected in England and Wales 2010/11*, HOSB 11/11

<sup>6</sup> *Initial findings from the review of out of court disposals*, February 2010, <http://www.justice.gov.uk/downloads/publications/moj/2011/out-of-court-disposals-june2011.pdf>

<sup>7</sup> <http://www.hmic.gov.uk/media/exercising-discretion-the-gateway-to-justice-20110609.pdf>

14. A large proportion of prosecutions in the magistrates' courts are for relatively minor offences (for example, television license evasion, minor road traffic offences and vehicle excise duty evasion). 1.56 million defendants were dealt with by the magistrates' courts in 2011<sup>8</sup>, including over 215,000 proceedings for TV licence and Vehicle Excise Duty offences, and around 550,000 proceedings for summary motoring offences.
15. There is evidence that these cases are rarely contested; defendants seldom actively engage in the process; and cases normally result in a predictable penalty being imposed, usually a fine, and in the case of traffic offences, an endorsement of the offender's driving license.

### **Cases not proceeding on schedule**

16. When cases come before the courts, too often they do not proceed to plan, a complaint we regularly hear from practitioners. For example, it is still the case that fewer than half of all trials go ahead on the scheduled date.<sup>9</sup> In 2011:
  - 18% of trials in the magistrates' courts, and 14% of Crown Court were not ready and had to be relisted; and
  - around 4 in 10 trials "cracked" (i.e. they were resolved without the need for a full trial, usually because the defendant changed his plea to guilty, or because the prosecution decided to drop the case on, or just before, the scheduled date of trial).

### **A highly centralised criminal justice system**

17. Within the criminal justice system, many of the agencies operate a highly centralised system of performance management, which focuses on internal agency measures and indicators. Nevertheless, there are wide variations in performance between local areas in many aspects of their performance. For example:
  - the difference between the average length of proceedings in the best and worst performing areas is three weeks in the magistrates' courts and ten weeks in the Crown Court;
  - percentages of ineffective trials range from 12-20% in the magistrates' courts and 13-16% in the Crown Court;
  - percentages of cracked trials range from 36-46% in the magistrates' courts and 32-53% in the Crown Court<sup>10</sup>.
18. There is concern that too much time and expense is spent on relatively simple cases - cases are being dealt with inefficiently. Sentences given in around half of triable either way cases finalised

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<sup>8</sup> Ministry of Justice (2012), *Criminal Justice Statistics, Quarterly Update to December 2011*

<sup>9</sup> Ministry of Justice (2012), *Judicial and Court Statistics 2011*

<sup>10</sup> Ministry of Justice (2012), *Judicial and Court Statistics 2011*

in the Crown Court are within the range that could be given in the magistrates' court. For example, in theft and handling cases, a high proportion (two thirds or more) of defendants tried in the Crown Court receive sentences within the magistrates' court range. There are a number of issues that determine where a case is heard in addition to sentencing powers. However, some of these cases could potentially be dealt with in a magistrates' court.

### **Shared local accountability for local outcomes**

19. The public has little say in what the criminal justice system does, or how it can improve. If a member of the public wanted to become involved, whether from simply wanting to know more up to volunteering, they would find it difficult to work out how to do so. Whilst the police do engage the local community to determine and set priorities, we know that this does not always impact upon the priorities of the whole Criminal Justice System.
20. While there are examples of local partnership arrangements which work well, in particular focussing on cross-CJS efficiency, without an explicit shared outcome, many areas have told us that they find it hard to make the best use of those partnerships.

### **A lack of transparency and responsiveness**

21. Justice must be done and must be seen to be done if it is to command public confidence. This is not just about making information available for the sake of it; where there is poor or little information about performance it is extremely difficult for the public to hold the system and those who work within it to account.
22. 69% of respondents to a 2009 MORI poll were either 'not at all' or 'not very' confident with how criminals were dealt with<sup>11</sup>. Crime Survey for England and Wales (CSEW)<sup>12</sup> data for the 12 months to March 2011 shows that just 43% of the general population are confident that the criminal justice system is effective and 61% are confident that it is fair.<sup>13</sup> The same data shows that only 52% of people agreed that the police and local council were dealing with the anti-social behaviour and crimes issues that matter to their local community.

### **Policy objectives**

23. The reforms in the White Paper focus on the areas where the work of the criminal justice agencies overlaps, and are designed to support and enable them to work more effectively together to:
  - reduce delays by tackling the causes of waste, and failure; and

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<sup>11</sup> .Source: HMIC/Ipsos MORI (2010) Where Are the People on Crime and Punishment

<sup>12</sup> The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

<sup>13</sup> Home Office (2011), *Crime in England and Wales 2010/11. Findings from the British Crime Survey and police recorded crime (2<sup>nd</sup> Edition)*, Home Office Statistical Bulletin 10/11

- introduce more accountable, transparent services, responsive to local needs.
24. Taken together with the Government's wider programme of reform for crime and justice, these form a clear and a coherent strategy for a Criminal Justice System which:
- **prevents crime and protects victims:** providing an effective deterrent to crime;
  - **is responsive:** responds swiftly and effectively when crime does take place, so that offenders are quickly made to face the consequences of their actions; and
  - **punishes and reforms:** ensures that offenders are punished, and supported to reform.

## Swift Justice

25. **Flexible Criminal Justice System.** We will consider changes to criminal justice system operating hours to better support the operation of the system and the needs of its users. Magistrates' court cases and, in general, youth cases are in scope. However, cases involving youths are currently excluded from being conducted via a Virtual Court hearing. We will keep this policy under review.

### Specific proposals

26. We have invited local criminal justice partnerships to work together to put forward proposals to test a variety of new flexible and innovative approaches in their regions. Their proposals will form part of a series of pilots during the course of this year. These include:
- magistrates' courts sitting from 8:30 am for Prison Court Video Link hearings, reducing the number of defendants requiring transport to court;
  - trials being conducted in the magistrates' court on a weekend;
  - later evening sittings in magistrates' courts to deal with those who might otherwise be detained in police custody overnight, including the use of video link technology.
27. **Streamlined Forensic Reporting (SFR):** SFR is a new way of producing forensic evidence for the Court which aims to avoid the need for full forensic evidence to be produced when it is unlikely to be in dispute. This means that case files are prepared more proportionately, reducing unnecessary work, delay and cost associated with forensic evidence. Partial forensic reporting is undertaken during the investigative stage of a case, limited to the material necessary for identifying suspects and determining the appropriate charge. Full reports are only commissioned once proceedings have been commenced, and the defendant indicates that he intends to contest the charges.

### **Specific proposals**

28. Support wider, national implementation based on the London pilot of Streamlined Forensic Reporting processes across England and Wales.

## **Sure Justice**

29. **Justice Test and oversight of out-of-court sanctions**": to help police officers, and other professionals, exercise their discretion in dealing with offenders.

### **Specific proposals**

30. The Crown Prosecution Service, working with CJS partners, will develop detailed proposals for a 'Justice Test' to articulate criteria to assist police officers to determine whether a particular matter could be dealt with outside of court and what the most appropriate resolution might be.
31. **Reconnecting justice with communities**: Involve local communities in solving problems of anti-social behaviour and low level crime. Neighbourhood Justice Panels (NJPs) are a means of using restorative justice, facilitated by local volunteers, working within their community to address any problem behaviours and low level offending affecting them. NJPs are consistent with the government's vision for the Big Society: local communities will take responsibility for ensuring that NJPs take account of and respond to local needs.

### **Specific proposal**

32. We are working with fifteen local areas to test the NJP approach. The test approach will combine data monitoring and analysis with some case study fieldwork research over the next two years, with an interim report to be produced in Spring 2013. We will assess the processes areas use in setting up and delivering their local panel and will monitor inputs and outputs - for example the types of cases referred to panels and the rate of effective compliance with the agreed outcome. We will also examine victim satisfaction, community confidence and the subsequent offending of perpetrators who have been through the Panel process.
33. **Re-conceiving summary justice**: including enabling a single magistrate to deal with certain low-level uncontested cases (rather than a full bench of two or three). The White Paper sets out high level proposals to reform the way that certain uncontested, low level cases are dealt with.

### **Specific proposals**

34. Empower single magistrates to sit alone when dealing with low-level uncontested cases. The paper sets out high level proposals for a magistrate sitting alone, rather than as a full bench of two or three, to be able to deal with uncontested, low-level cases. We will consult formally on the detailed proposals at the appropriate stage.
  
35. **Retaining more cases in the magistrates' courts:** specifically less serious cases including those that go to Crown Court but receive sentences that could have been given by a magistrates' court.

### **Specific proposal**

36. The White Paper outlines a proposal to introduce a financial threshold for the either way offences of theft and handling stolen goods. Under the proposal, for offences below the financial threshold, magistrates' powers to commit them for trial in the Crown Court would be removed, although the defendant's right to elect for trial by jury would remain unaltered. We will consult formally on the detailed proposals later in the year.

## **Efficient Justice**

37. **Increase the use of video technology across the criminal justice system:** We will increase the use of video technology across the criminal justice system.

### **Specific proposals**

38. Extend the use of video technology in criminal justice proceedings to applications for search warrants, interviews between prison and police station and applications for warrants of further detention.
  
39. Explore the potential and case for simplifying existing legislation to permit video evidence to be used routinely for victims and witness in criminal proceedings including trials.

## **Transparent Justice**

40. **Publishing information about criminal justice performance**

### **Specific proposals**

41. Over the course of 2011-2012 we have moved a long way forward in making the justice system more transparent and accessible. We have done this through:
  - the introduction of crime maps, including from May 31<sup>st</sup> this year, information on criminal justice outcomes;

- publication of anonymised individual-level re-offending, sentencing data and sentencing data by court;
  - publication of court-level timeliness data;
  - the establishment of the Crime and Justice Transparency Sector Panel;
  - testing feasibility of releasing criminal court listings and site specific tribunals data;
  - undertaking engagement events with data users to better understand users' needs;
  - establishing the capability to conduct customer and behavioural insight research into justice users; and
  - commissioning bids for trailblazer projects to be undertaken by local CJS agencies to further improve the transparency of the CJS.
42. We are currently developing a strategy with the Home Office for the next stage of the crime and justice transparency agenda. The strategy will set out the principles, aspirations, constraints, dependencies and risks involved in delivering an even more transparent crime and justice sector. We are discussing further possibilities for greater transparency over 2012/13 and 2013/14 as part of business planning and the update to MoJ's Open Data Strategy. Data will continue to be released electronically, on the Internet. This is the basis upon which the future strategy is being developed.
43. **Broadcasting court proceedings:** increase the transparency of the justice system through the introduction of broadcasting of judgments and advocates' arguments initially from cases before the Court of Appeal, and subsequently sentencing remarks in the Crown Court.

### **Specific proposals**

44. We have introduced legislation to allow judgments and advocates' arguments in cases before the Court of Appeal (Criminal and Civil Divisions) to be broadcast. Cases in the Court of Appeal normally deal with complex issues of law or evidence, and victims and witnesses only appear rarely in order to provide new evidence.

## **Economic rationale for intervention**

45. The economic rationale for government intervention may relate to securing macroeconomic objectives, especially in relation to fiscal policy, as well as to microeconomic considerations. On the macroeconomic side the policy proposals in this Impact Assessment may also contribute to reducing the scale of Government expenditure. In addition to the policy rationale for reforming the criminal justice system, these policies may contribute to the Government's objective of reducing the size of the budget deficit.

46. On the microeconomic side the conventional economic rationale for government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to the more needy groups in society).
47. Together, the proposals in this impact assessment seek to address all three objectives.
48. Increased opportunities for the public to observe criminal justice system performance mean that confidence in the criminal justice system, and a willingness to participate in its processes, either as victims, witnesses, magistrates or jurors may increase. There is evidence of a positive relationship between knowledge of and confidence in the criminal justice system.
49. **The proposals to deliver a swift and sure criminal justice system** aim to address objectives of efficiency. Sentences given in around half of triable either way cases finalised in the Crown Court are within the range that could be given in the magistrates' court. For example, in theft and handling cases, a high proportion (two thirds or more) of defendants tried in the Crown Court receive sentences within the magistrates' court range. There are a number of issues that determine where a case is heard in addition to sentencing powers. However, dealing with cases in the lowest cost way that does not impact on the outcome is clearly an efficiency gain. The proposal to create a monetary filter in certain either-way cases aim to help to deal with these cases in a more proportionate way. Increasing the use of video links may also decrease the time and other resources that agencies need to input to complete a case. Increasing the speed with which cases are dealt with at no additional cost to the criminal justice system is also an efficiency improvement. Dealing with cases more quickly might increase the satisfaction of victims, witnesses and the public with the criminal justice system. A more flexible criminal justice system, which extends operating hours and incorporates greater use of the virtual court, may help to increase the speed with which cases are disposed of. If these proposals create efficiencies that enable reduced expenditure, then they will contribute to the macroeconomic objective of reducing the fiscal deficit.
50. **The proposals to reform out-of-court summary justice and increase transparency of the CJS** aim to increase the visibility and responsiveness of the CJS. They aim to address a lack of information for criminal justice system users. Poor or hard to access information about criminal justice system performance also makes it difficult for people to hold it to account. Increased transparency of criminal justice system performance may also mean that people will be able to complain more easily if they feel that it is underperforming, which may over time increase performance. There is evidence of a positive relationship between knowledge of, and



confidence in, the criminal justice system. If more readily available information increases confidence and engagement with the criminal justice system, it may encourage victims and witnesses to come forward, further improving criminal justice system performance. The reforms also aim to deal with summary cases in a more efficient and appropriate way, potentially creating savings and reducing the fiscal deficit.

51. **The proposals to use technology to modernise the CJS** aim to reduce costs, increase speed and increase the efficiency of criminal justice processes.

### **Affected Groups**

- Judiciary (including the Magistracy)
- Police
- Her Majesty's Courts and Tribunals Service (HMCTS)
- Crown Prosecution Service (CPS) / Attorney Generals' Office (AGO)
- Criminal Bar Association / Law Society
- Victims Groups
- Victims of crime
- Witnesses of crime
- Justices' Clerks' Society (JCS)
- National Offender Management Service (NOMS)
- Defence solicitors/ Chartered Institute of Legal Executives
- Legal Services Commission
- Broadcast media
- Youth Offending Teams (YOTs )
- Local Authorities (LAs)
- Prisoner Escort Contract Services (PECS)
- Forensic science professionals

## **Costs and benefits of Options**

### **Option 0: Do nothing**

52. Under this option the criminal justice system would continue to function as currently.

53. Because the do-nothing option is compared against itself its costs and benefits are necessarily zero, as is its Net Present Value (NPV)<sup>14</sup>

## Option 1: Flexible Criminal Justice System

54. We will consider changes to criminal justice system operating hours to better support the operation of the system and the needs of its users. Magistrates' court cases and youth cases are in scope. Youths are currently excluded from Virtual Courts and we will keep under review, as our flexible courts pilots deliver evaluation results, whether this should continue to be the case.

### **Costs of option 1**

55. The costs of option 1 are contingent on the exact operating models that are piloted.

### **Costs to criminal justice system agencies.**

56. In this IA we differentiate between the costs of the pilots and the potential costs of national rollout/business as usual.
57. Where pilots include keeping courts open for longer hours there will be financial costs to the criminal justice system. The costs to the magistrates' courts are likely to be in the range of £200 - £300 in court staff costs for every extra opening hour per court. The costs of the pilots will be funded from existing budgets, but this would be difficult to achieve if an extended hours model were to be adopted as business as usual. In the pilots, this may be achievable through the use of volunteers to staff courts in the extra hours. The £200 - £300 in this instance is an estimate of the value of court staff time. There may also be additional costs to the police, CPS, probation staff and other staff working in youth offending teams, as well as defence solicitors, from operating for longer hours.
58. Prison receptions in some pilots would need to be open for additional hours, creating a cost for the National Offender Management Service (NOMS), potentially in the region of £100 per hour per prison reception. This cost applies in both the pilot and in a business as usual scenario.
59. In those areas testing the use of the virtual court in offering more flexible arrangements, there may be technology set up and running costs. Once the equipment is available, it can also be used for other purposes, such as hearing police evidence in summary trials over video link

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<sup>14</sup> The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

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from the police station (an initiative known as 'Live Links'). The technology set-up and running costs for the pilots may be in the region of up to £50,000 for set-up, £10,000 per annum in running costs in any pilot which purchases video technology. Any technology costs will, over time, be shared with the other uses of video-links, including police witness video links and prison-court video links. However these costs will not be incurred where the flexible CJS pilots do not require investment in new video technology.

60. Where the Virtual Court is used, there may be a legal aid cost as all first hearings conducted via video-link will receive legal aid via a non means-tested Virtual Court Fixed Fee. This may be partially offset by the lower fixed fee for Virtual Court cases that finish at the first hearing (£150 outside London and £200 in London, compared to £170 outside London and £220 in London). It is not possible to say with any degree of certainty what the cost to the legal aid fund of the flexible court pilots is likely to be.
61. For flexible and extended hours, there might be an impact on the small/medium sized legal firms, and potentially an impact on criminal barristers, particularly members of the Junior Bar. It is possible that they may in some instances need to work longer hours.
62. If the pilots succeed in getting cases through court more quickly and there is a backlog to be worked through, then there would be a short term and one off increase in volumes. This risks short-term increase in costs to:
  - the legal aid fund;
  - Prisoner Escort Contract Services (PECS);
  - NOMS (if there is a short term increase in volumes of offenders being sent to prison)
63. As cases would be dealt with more quickly, this backlog could be brought forward creating a short time spike in the costs. The size of this cost is contingent on the size of any backlog of cases (in particular custody cases) and how quickly they are dealt with, but it is likely to be small given the overall scale of the pilots.

### **Benefits of option 1**

#### **Benefits to criminal justice system agencies**

64. Where the Virtual Court is used, there will be benefits in terms of reduced prisoner journeys. The benefit is dependent on the volume of custody cases that go through the Virtual Court. The saving will only be cashable if the number of journeys goes down sufficiently to be paid a different sum under the prisoner escort contract. Greater utilisation of Prison to Court Video Links (PCVL) will also reduce the number of PECS journeys.
65. Where the Virtual Court is used in cases where a defendant is bailed rather than kept in custody, there may be a reduction in the Failure to Appear (FTA) rate, as demonstrated in the

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Virtual Court Pilot: Outcome Evaluation Report (2010). The proportion of FTAs in bail cases in the pilot was 1% compared with 5% in the comparator area. This would benefit the police in terms of not having to enforce as many court appearances. The cost of an FTA for the police is estimated at £800<sup>15</sup> (around 25 hours of staff time at police constable rate). A reduction in FTAs also removes the need for a custodial sentence for these cases. Finally, a reduction in FTAs removes the need to remand these cases in custody.

66. If flexible courts are widely used then they may take work from other courts, releasing capacity and enabling them to be used for other purposes.
67. If video technology is used to allow police witnesses to give evidence from the police station, then there may be a decrease in police travel and waiting time and officers will be freed up to work on other matters in the police station while they wait to give evidence.

### **Other benefits**

68. This policy might provide an opportunity for other volunteers to become magistrates who are currently not available during traditional criminal justice system operating times. This may promote the diversity of the judiciary through offering a wider range of hours at which to attend court, therefore enabling a more diverse group of people to volunteer as magistrates.

### **Benefits to victims and witnesses**

69. Cases where the defendant is held in custody may in some instances be dealt with on the day of charge rather than overnight. Cases where the defendant is on bail but is ready to plead guilty may also be dealt with on the day of charge, rather than a week or two later as is the current practice. This increase in speed is assumed to benefit victims of crime. Speed may also be increased through a reduction in the Failure to Appear rate.
70. Another potential benefit to victims of and witnesses to crime is that operating hours may be more convenient to them.

### **Net impact of option 1**

71. The net impact of option 1 is intended to be an increase in victim and witness satisfaction and increases in efficiency (specifically through a decrease in the volume of prisoner journeys). This is contingent on sufficient volumes of cases going through and whether cases will be dealt with more quickly. However this will be at the expense of increased costs to prisons, the CPS and legal aid. There may also be additional costs to CJS agencies if they cannot find sufficient volunteers to do the work. We are assuming these additional costs can be absorbed in the pilot, although this may not be possible if the model became BAU.

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<sup>15</sup> Source: VC Evaluation Report 2010

### **Key assumptions and risks of option 1**

72. As above, the key assumptions and risks are around the volume of cases available and the operational models piloted and implemented. All benefits and costs are contingent on these. Creating a regional virtual court may impact on the magistracy, as it would involve magistrates hearing cases outside their local justice areas. Directions may be required relating to the distribution of magistrates' business to test the regional Virtual Court.

## **Option 2: Streamlined Forensic Reporting**

73. National roll-out of SFR is aimed at reducing bureaucracy and making the preparation and presentation of forensic evidence at court more proportionate to the case requirements. Avoiding the completion of a full forensic report when it is unlikely to be disputed should reduce unnecessary work and facilitate the building of a more proportionate case.
74. A lower initial file preparation means that cases may be dealt with more quickly. Greater speed might potentially lead to fewer cracked/ineffective trials and more early guilty pleas.

### **Costs of option 2**

75. ACPO have indicated that police forces would need to make some initial investment to establish a suitable team to embed Streamlined Forensic Reporting (SFR) processes locally and monitor its progress. Any associated costs would be borne by local police forces.
76. There is a risk that an increase in early guilty pleas might create a short term increase in costs to NOMS as a result of a potential increase in numbers of people arriving at prison. Whilst it is not possible to accurately quantify the scale of this effect, it is unlikely to be significant in overall prison population terms.

### **Benefits of option 2**

77. SFR has been developed in the Metropolitan Police force area, which has been testing it since 2010. London data indicates that: cases are being processed with less risk of discontinuance; cases appear to have an improved chance of a successful prosecution; the early guilty plea rate for 'in-scope' cases has improved; the cracked trial/plea on date of trial rate has been improved; and the number of cases requiring further forensic evidence has reduced for 'in-scope' cases.
78. The benefits, which have been indicated in the London pilot, include a reduction in cracked and ineffective trials and an increase in Early Guilty pleas which may result in long term savings to NOMS, the CPS and HMCTS and increase in the speed with which disposals are reached, There are potentially additional savings to the police as they reduce the amount of forensic evidence required for every case. Any reduction in cracked and ineffective trials may improve victim and witness satisfaction.

### **Net impact of option 2**

79. The net impact of SFR is likely to be positive in the long run as the CPS, Courts and NOMS make savings. However in the short run any net benefit is contingent on implementation costs being relatively low and any transitional costs being likewise

### **Key assumptions and risks of option 2**

80. Whilst defence practitioners may benefit from earlier access to forensic evidence, this may be offset by a reduction in fees received.

## **Option 3: Justice Test and oversight of out-of-court sanctions**

81. This policy is to develop a simplified National Framework for out-of-court sanctions, including community resolution and restorative justice. It includes introducing a simple, non-bureaucratic 'Justice Test' to articulate criteria to assist police officers to determine whether a particular matter could be dealt with outside of court and what the most appropriate resolution might be. We are also considering how we can encourage local criminal justice partnerships to work with Police and Crime Commissioners, to put in place local arrangements, which might include magistrates, to scrutinise the use of out-of-court sanctions in their areas.

### **Costs of option 3**

#### **Costs to the criminal justice system**

82. There will be costs to the criminal justice system in terms of drawing up the Framework. There will be some minimal costs to the police in introducing the Justice Test.

83. There may be costs associated with the scrutiny of out-of-court sanctions and learning costs for magistrates, police and the CPS.

### **Benefits of option 3**

84. It is proposed that the Framework and Justice Test will enable more consistent application of out-of-court sanctions. As suggested elsewhere in light of the transparency agenda it is important that the community feel that these disposals are used fairly and consistently. Fairness is linked to public confidence.

85. A simple Justice Test would also tie in with the wider approach to transparency, making it easier for the public to understand how decisions are reached. It would also ensure out-of-court sanctions are used appropriately, therefore addressing any concerns about their inappropriate use. This may improve victim and witness satisfaction.

### **Net impact of option 3**

86. The likely net impact is unknown. There may be an increase in confidence in the criminal justice system resulting from a potential increase in consistency of use of out-of-court sanctions.

### **Key assumptions and risks of option 3**

87. There is a concern that people may use the Justice Test as a means to challenge an individual officer's decision in the courts. Any impact assumes a responsive change in behaviour to the Framework. The aim of the framework is not to remove particular cases from the courts or for cases that currently receive an OoCD to be dealt with in court instead, but rather to improve decision making and effective use of OoCDs. If there is an impact on the number of cases that are disposed in or out-of-court, this would affect costs.

## **Option 4: Reconnecting justice with communities**

88. Test Neighbourhood Justice Panels. Panels are a partnership between local agencies, police and local authorities, and the local community. They seek to address anti-social behaviour and low-level offending where this can appropriately be dealt with in and by the community, through a restorative solution focused on addressing the needs of the victim, repairing the harm done to the community, and avoiding unnecessary criminalisation (particularly of young people). We intend to work with 15 local areas to test the Panel approach and learn lessons.

### **Costs of option 4**

89. There are likely to be local area costs associated with setting up and running Panels and these may fall to the police or Local Authorities.
90. The costs of resourcing the Panels will be incurred locally and are likely to be met by the agencies (police and other non criminal justice system agencies) involved.

### **Benefits of option 4**

91. Neighbourhood Justice Panels have the potential to improve victims and community confidence in the CJS via an apology and swift and visible reparation.
92. Panels may also achieve a reduction in future offending behaviour. Previous evaluations of restorative justice have suggested that it can reduce the frequency of reoffending.
93. The use of panels may also help to address concerns about the use of simple out-of-court sanctions, while addressing problem behaviours without unnecessarily criminalising people.

**Net impact of option 4**

94. The net impact is unknown. There will be a cost to those who set up Panels but this may be outweighed by the increase in public confidence in, and engagement with, the criminal justice system.

**Key assumptions and risks of option 4**

95. The net impact of option 4 is contingent on the extent to which victims and the public have confidence in the Panels and the costs of setting up and running a Panel.

**Option 5: Reconceiving summary justice**

96. The White Paper proposes reform of the way in which magistrates' courts hear and sentence certain uncontested, low level cases by developing an approach that is more local, swifter, and/or involves less cost and bureaucracy.

97. The proposal defines "low level" offences as falling into two broad categories, which are likely to require reform in different ways:

- bulk, low level, regulatory cases, which are characterised by high numbers of unresponsive absentee defendants. These include TV Licence evasion, vehicle duty evasion, minor motoring offences and rail fare evasion. These cases result in predictable (almost exclusively financial) penalties. In the majority of these types of cases, defendants do not engage with the court process, and the case generally proceeds in their absence.
- uncontested, low level charged cases where a defendant, who is obliged to attend court because they are on bail, enters a guilty plea and [where a fine or a discharge (and other directly associated costs and consequences) is the appropriate penalty. These might include some types of disorder, shoplifting and criminal damage offences.

98. In 2011, there were 1.56 million proceedings in magistrates' courts. Cases that may be defined as bulk, low level, regulatory offences constitute a significant volume of the work this work. For instance, in 2011, TV licence and Vehicle Excise Duty offences alone accounted for over 215,000 proceedings<sup>16</sup>.

99. The White Paper sets out further work we will be doing to explore whether cases which are regulatory in nature could be heard by a single magistrate, with the power to impose fines or discharges, and other directly associated costs and ancillary court orders.

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<sup>16</sup> Ministry of Justice (2012), *Criminal Justice Statistics, Quarterly Update to December 2011*



100. The White Paper also sets out other types of cases which would benefit from a process involving a single magistrate. Cases where a defendant has been charged with a low level offence such as unruly behaviour, shoplifting and criminal damage, and who are likely to plead guilty and receive a fine at court might be included. Such cases are often more relevant to community concerns than regulatory cases, and might benefit from a more local approach.

101. The intention is to continue to develop detailed proposals for these cases to be handled by a single magistrate.

### **Costs of option 5**

102. The costs of this policy are contingent on how the process would work. The policy intention is to simplify the process, so if this objective is met costs of dealing with these cases should fall. However further detail is required before any estimates can be made on costs.

103. There may be set-up costs including training associated with implementing this policy.

104. There is a risk that some cases will be misallocated to single magistrates. Where there are cases that are misallocated to single magistrates, the effect would be add in an extra hearing with single magistrates before sending to a full bench.

### **Benefits of option 5**

105. The benefits of this policy are contingent on how the process would work. Further detailed work is required to establish the extent to which removing these cases from the traditional court process and dealing with them in a different way would release capacity and reduce back office and administrative costs.

106. Other agencies than the MoJ may benefit from reduced case preparation and administrative costs, depending on how the process works.

107. There may be a saving in terms of magistrates' expenses including travel. Magistrates will have their time freed up for other purposes.

108. It is possible there will be an increase in speed and/or proximity to communities.

### **Net impact of option 5**

109. The net impact is contingent on how the new process would work. It depends on the set-up costs, the volumes of cases and the costs of dealing with these cases.

110. If single magistrate hearings are no more expensive than hearings with a full bench, and single magistrate hearings replace rather than add to other hearings, there should be a net benefit of this policy. This benefit consists of some cases being dealt with more quickly, justice

being dealt in greater proximity to the communities affected by crime and the gain in time to magistrates who no longer need to sit, as well as the reduction in their travel and expenses. However, there could be additional travel costs if magistrates sit in many more venues.

### **Key assumptions and risks of option 5**

111. There is no reason to believe that using single magistrates for suitable cases would be more expensive than a bench of two or three magistrates; we will be engaging practitioners and other stakeholders in developing how this option might work. Costs and benefits will depend on how cases dealt with by single magistrates are processed.

112. It is assumed that hearings before a single magistrate will replace, rather than add to, hearings before a full bench of two or three (but only for the specific cases envisaged).

113. It is assumed that single magistrates' will have the power to impose victims' surcharge at the same level as a full bench.

114. Other impacts may need to be explored such as outcomes, proximity to communities and speed.

115. Other agencies than the MoJ may benefit from reduced case preparation and administrative costs, depending on how the process works.

## **Option 6: Retaining more cases in the magistrates' courts**

116. We propose to restrict magistrates' powers to commit offences of theft and handling stolen goods for trial in the Crown Court where the property involved is of less than a certain value, the level of which is subject to further work. The defendant would retain the right to elect Crown Court trial in cases below the threshold, but a defendant who exercised the right to elect would if convicted in the Crown Court be liable to normal penalties available there.

### **Costs of option 6**

117. There may be costs to magistrates' courts through a greater number of cases being dealt with there. There is a potential increase in prison demand resulting from potentially more severe sentences (within their six-month maximum) in the magistrates' courts but we do not have any unequivocal evidence to suggest this would be the case. If there were to be increased demand for prison places as a result of harsher sentencing in magistrates' courts, it might be mitigated by savings from those currently receiving more than six months in cases below the threshold, which would receive a maximum of six months. Any effect would be likely to be on a small number of cases. For example, the total pool of theft and handling cases that could be affected is around 11,800, which is the total number of cases of theft and handling stolen

goods sentenced in the Crown Court<sup>17</sup>. The proportion affected will depend on the threshold set.

### **Benefits of option 6**

118. There are potential legal aid savings if more cases are paid at the rates for magistrates' courts proceedings which are significantly lower than the rates paid for cases in the Crown Court. There may also be savings in time to HMCTS as cases prosecuted through the magistrates' court are shorter than Crown Court proceedings.

119. These savings in legal aid and to HMCTS depend on how many cases could successfully be moved out of the Crown Court. Savings would be realised only on the basis of other policy decisions and longer term strategies. For example, there would need to be a reduction in Crown Court capacity (beyond anything that is already planned), for example a reduction in Crown Court sitting days, and no back-filling of freed up Crown Court space. If there is backfilling in the Crown Court then there are no savings and magistrates would need to deal with more cases. However if there is backfill then some cases will have been dealt with more quickly at the Crown Court.

120. There may also be savings to the CPS. Cases tried in the Crown Court incur higher costs than those in the magistrates' courts. For example, the cost to the CPS of a Crown Court guilty plea is greater than in a magistrates' court. These potential savings have not yet been quantified.

121. The way that cases of theft and handling stolen goods are treated would be affected. The pool of theft and handling cases that a monetary filter could potentially affect is about 11,800 each year. Estimating the number that would in fact be affected depends on the level at which the threshold is set. The objective in setting it would be to strike a balance between retaining more cases for trial in the magistrates' courts and continuing to ensure more serious offending is tried on indictment so that appropriate penalties are available at sentencing.

122. It is also possible that the savings would be smaller if the combination of the Early Guilty Plea scheme and the abolition of committals succeed in reducing costs in cases that end in a guilty plea at the Crown Court.

### **Net impact of option 6**

123. The net impact is unknown. This is because we cannot predict with any potential behavioural change around sentencing. If sentencing is tougher at the magistrates' court than it would have been at the Crown, then there may be a potential small increase in the prison population. Any change in the types of disposal may impact on victim surcharge revenue, though at this stage it is not possible to know the direction or magnitude of any change.

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<sup>17</sup> Ministry of Justice (2012), *Criminal Justice Statistics, Quarterly Update to December 2011*

### **Key assumptions and risks of option 6**

124. Costs and benefits are contingent on the volumes and costs of dealing with these cases at different courts, and the extent to which there might be backfill.

## **Option 7: Increase the use of video technology across the criminal justice system**

125. We will increase the use of video technology across the criminal justice system. This includes extending the use of video technology to applications for search warrants, to interviews between prison and police station and to applications for warrants of further detention.

### **Costs of option 7**

126. There are potential costs of installing and running new video technology, although it is expected that these costs in some areas will already have been incurred through any increase in the number of Live Links initiatives and Prison to Court Video Links and Virtual Courts. Existing technology already installed or currently being refreshed can be used for the police business element of this proposal, but increased use for victims and witnesses could mean new kit being required in fixed 'remote' locations.

### **Benefits of option 7**

127. Police time will be saved where applications for search warrants and applications for further detention are made through video-technology, and there may be savings in PECS costs where video is used for interviews between the police station and prison.

### **Net impact of option 7**

128. Assuming that some of the costs of video technology have already been incurred and this policy requires no new investment, increasing the use of video should have a net benefit in terms of police time saved and decreased PECS costs. However this depends on how long it takes to roll-out Virtual Court policy. The net impact also depends on volumes of applications for search warrants, interviews between prison and police station, and applications for warrants for further detention, as well as their resource costs.

### **Key assumptions and risks of option 7**

129. Work is already underway through the CJS Efficiency Programme to modernise and increase productivity of the CJS through streamlined digital working and increased use of video link technology. Existing legislation has been introduced piecemeal, and this may be preventing the full realisation of what could be achieved. We will explore further whether this is the case.

## Option 8: Broadcasting in court proceedings and publishing information about criminal justice performance

130. This option is to increase the transparency of the justice system through the introduction of broadcasting of judgments and advocates' arguments from the Court of Appeal initially, followed by an extension to sentencing remarks in the Crown Court. Information on justice outcomes is now available alongside street-level crime data on police.uk, enabling the public to see what happens after a crime is reported. We will continue to provide data on sentencing, re-offending and court timeliness on the Open Justice micro site and justice.gov.uk.

### **Costs of option 8**

#### **Costs to broadcasters**

131. There will be some costs to the broadcasters in setting up and running court broadcasts. These costs will depend on how many court rooms they broadcast from, the number of cases filmed, the length of time spent broadcasting and therefore staffing levels required. It will also depend on type of equipment used, plus replacement/depreciation costs.

#### **Costs to the Justice System**

132. There are potential resource implications (staffing, estates) for HMCTS of allowing broadcasting from courts, and potentially additional training requirements for the judiciary if they are to be filmed. We expect these to be minimal and will explore whether any of these costs can be covered by the broadcasters.

133. There will be costs to some criminal justice system agencies (police, NPIA, HMCTS and MoJ) related to data capture and release.

### **Benefits of option 8**

#### **Benefits to broadcasters**

134. Broadcasters, who incur costs, are expected to make some gains in terms of attracting viewers from implementing court broadcasting, or reducing expenditure on other footage to cover court cases. This assumption is made on the basis that they would not invest in court broadcasting without expecting some form of return.

#### **Benefits to the public**

135. These policies may lead to increased engagement with the criminal justice system, which could in turn increase its effectiveness. Greater accountability could drive up performance, for example, increasing detection rates and the number of offences brought to justice.

136. Few people have direct experience of court proceedings and overall the public understanding of the criminal justice system is poor. There is some evidence that low levels of confidence in the criminal justice system have been attributed to a 'knowledge gap' among the general public regarding the criminal justice system. There is the possibility of an increase in public confidence in the criminal justice system due to greater availability of information and an improved understanding of the justice system.

137. There is also potential for improved productivity and delivery outcomes through more transparent services.

### **Net impact of option 8**

138. It will be complex to explore the impact of this proposal on public confidence as we will not be able to attribute changes directly to broadcasting or the release of information. There is some anecdotal evidence from countries where broadcasting is commonplace that suggests there is some practitioner resistance to these processes – it will be important to gauge the perceptions of practitioners involved in this process following implementation. There is evidence that suggests improved understanding of the justice system through the provision of information tends to lead to an increase in confidence.

### **Key assumptions and risks of option 8**

139. We have assumed that there will be no impact on the public purse from introducing broadcasting from courts. There is a risk that there may be negligible resource implications for HMCTS, however, we expect these to be minimal and will explore whether any of these costs can be covered by the broadcasters. There are risks around increased release of data, and associated privacy implications, particularly around the potential for identification of individuals if different datasets are looked at together. Whilst we will monitor this we do not believe that this risk is significantly greater than the risks that arise from other media coverage of criminal cases. Reporting restrictions will apply to broadcasting as they do currently in order to protect the identity of vulnerable victims and witnesses. In addition, the judge in a particular case will have the discretion to prevent filming or broadcasting where it would unduly prejudice any of the participants.

140. Justice outcome, sentencing and reoffending data are published in anonymised form, and steps have been taken before each new data release to test the potential for 'jigsaw identification' i.e. identifying individuals by combining separate datasets.