

Title:
Reform of the anti-social behaviour toolkit – Criminal Behaviour Order, Crime Prevention Injunction and Dispersal Powers

IA No: HO0081

Lead department or agency:
Home Office

Other departments or agencies:

Impact Assessment (IA)

Date: 13/12/2012

Stage: Consultation Stage
(Pre-legislative Scrutiny)

Source of intervention: Domestic

Type of measure: Primary legislation

Contact for enquiries:
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Summary: Intervention and Options

RPC Opinion: 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
£8.6m	N/A	N/A	N/A	N/A

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

The police recorded 2.5 million incidents of anti-social behaviour in the year ending June 2012, with many more reported to other agencies such as social landlords and local authorities. According to an Ipsos MORI survey in 2010, ASB ranks as the public's highest priority when it comes to tackling crime and disorder in their area. The Home Office review of ASB powers carried out in 2010 found that the problems with the current system to tackle ASB are that it is too centralist, does not engage the community sufficiently in tackling problems, and that the current toolkit is too complex and bureaucratic with too many separate tools. Government intervention is required to improve the ASB powers to empower practitioners to tackle ASB more effectively in their communities and to give communities greater power to hold agencies to account.

What are the policy objectives and the intended effects?

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

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

Policy options considered in this Impact Assessment are:

Option 1: Do nothing (baseline)

Option 2: Implement these proposed amendments to the anti-social behaviour tools and powers through the introduction of:

- i) Criminal Behaviour Orders;
- ii) Crime Prevention Injunctions; and
- iii) Dispersal Powers.

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

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

Does implementation go beyond minimum EU requirements?					N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:		

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

Signed by the responsible Minister: _____ *J. Thomas* _____ Date: 13/12/2012

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing

FULL ECONOMIC ASSESSMENT

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

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

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

There are no additional costs resulting from Option 1.

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

There are no additional costs resulting from Option 1.

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

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

There are no additional benefits resulting from Option 1.

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

There are no additional benefits resulting from Option 1.

Key assumptions/sensitivities/risks

Discount rate (3.5 per

BUSINESS ASSESSMENT (Option 1)

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

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -£20.8m	High:£22.1m	Best Estimate:£8.6m

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	1	£0.1m	£0.6m
High	Optional		£3.5m	£27.6m
Best Estimate	n/k		£0.5m	£4.5m

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

The best estimate involves additional monetised costs to Her Majesty’s Court Service (HMCTS) (£0.2m annually) and ASB practitioners (£0.3m annually) resulting from the higher breach rate anticipated for the Crime Prevention Injunction order compared to the Anti-Social Behaviour Injunction (ASBI) (though lower than the ASBO). However, it has not been possible to monetise all costs, and given uncertainties around forecasted volumes costs could be higher, falling predominantly to HMCTS and ASB practitioners, captured in sensitivity analysis in Section E. Costs identified may be opportunity in nature.

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

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

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	1	£0.7m	£6.8m
High	Optional		£2.6m	£22.7m
Best Estimate	n/k		£1.5m	£13.1m

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

Benefits generated are savings from streamlined powers, with less duplication and so fewer orders issued. A greater role for the County Court in this option generated most of the LSC and CPS savings. It is estimated that the potential annual savings generated will fall to CPS (£0.5m) and LSC (£1.0m). However, new powers for Local Authorities may result in an increase in CBOs and, while this could not be quantified, the additional work generated could offset savings elsewhere. Benefits identified are not necessarily cashable.

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

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

Key assumptions/sensitivities/risks

Discount rate (| 3.5

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

BUSINESS ASSESSMENT (Option 2)

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

Evidence Base (for summary sheets)

A. Strategic Overview

Background

- 1) The term 'anti-social behaviour' describes the everyday nuisance, disorder and crime that has a huge impact on victims' quality of life, but has not always been prioritised by the police and other agencies. The police recorded 2.5 million incidents of anti-social behaviour in the year ending June 2012.¹ However, many incidents are not reported at all, or are reported to other agencies such as social landlords and local councils.
- 2) Much of what is described as anti-social behaviour is criminal (e.g. vandalism, graffiti, street drug dealing and people being drunk or rowdy in public), but legislation also provides a range of civil powers, such as the Anti-social Behaviour Order (ASBO) and the Anti-social Behaviour Injunction (ASBI). These offer an alternative to criminal prosecution and give the police and other agencies the ability to deal with the cumulative impact of an individual's behaviour, rather than focus on a specific offence. Some, such as the Anti-Social Behaviour Injunction, allow for a lower standard of proof (i.e. the civil 'balance of probabilities' rather than the criminal 'beyond reasonable doubt'). The lower standard of proof should make it quicker and less expensive for agencies to obtain the Crime Prevention Injunction as it should reduce evidence-gathering for the agencies, contrasted with the Anti-Social Behaviour Order (ASBO) on application – which the Crime Prevention Injunction will replace – which has a higher standard of proof (i.e. the criminal standard, 'beyond a reasonable doubt').
- 3) In addition, informal and out-of-court disposals are an important part of professionals' toolkit for dealing with anti-social behaviour, offering a proportionate response to first-time or low-level incidents and chance to intervene early and prevent behaviour from escalating. For example, tools such as warning letters and Acceptable Behaviour Agreements are often used to deal with low-level anti-social behaviour, with one intervention frequently enough to stop the behaviour. Although the reforms in this impact assessment are focused on changes to the court-based tools used to deal with anti-social behaviour, informal and out-of-court interventions will still be the appropriate response to the vast majority of anti-social behaviour.
- 4) In May 2012, we published *Putting Victims First – More effective responses to anti-social behaviour*.² This set out the key priorities for the Government, including:
 - i) agencies identifying vulnerable and repeat victims earlier, and responding at the first sign of trouble, through better logging of calls and managing of cases;
 - ii) a simpler toolkit, with 19 powers reduced to just six, including an injunction which can be secured in a matter of hours not months, to nip behaviour in the bud;
 - iii) tough orders which can deal with anti-social behaviour if it escalates into criminality, which are flexible enough to deal with a range of yobbish behaviour including out of control dogs, public drunkenness, mini-motos and others;
 - iv) the community getting involved in tackling anti-social behaviour, for example through inputting into a Community Harm Statement to highlight to the court the impact of the behaviour on their daily lives; and
 - v) agencies held to account locally by directly elected Police and Crime Commissioners, and by victims through our new Community Trigger.

Streamlining the anti-social behaviour powers

- 5) A separate impact assessment has been drafted covering the Community Protection Notice, Community Protection Order (Public Space), Community Protection Order (Closure) and Community Trigger. This impact assessment focuses on:
 - i) the Criminal Behaviour Order;

¹ Crime in England and Wales, Quarterly Release, June 2012

²The white paper can be found at www.official-documents.gov.uk/document/cm83/8367/8367.pdf

- ii) the Crime Prevention Injunction; and
 - iii) the Dispersal Powers
- 6) Two further impact assessments have been published alongside the draft legislation covering the Community Remedy and the new powers of absolute possession.

Affected Stakeholder groups, Organisations and Sectors

- 7) Anti-social behaviour consistently ranks as the public's highest priority when it comes to tackling crime and disorder in their area³ and it is also a key driver of public confidence in the police and local authorities⁴. So improving the powers available to police and others to tackle anti-social behaviour is likely to have an impact on victims and communities across the country.
- 8) The following individuals/sectors are likely to be affected by the proposals.
- i) **Victims:** Communities and victims of anti-social behaviour will be provided with better protection from harm if the powers for dealing with anti-social behaviour are improved.
 - ii) **Police:** Feedback from the police is that they tend to use the ASBO on conviction more than the ASBO on application, so impacts on the police should be minimal, as the new Criminal Behaviour Order has a similar application process to the ASBO on conviction. The dispersal powers should reduce burdens on the police by removing the requirement to gather evidence and consult with the local authority to set up a 'dispersal zone' before using the power.
 - iii) **Local authorities:** The main impacts for local authorities would be in moving from dealing with ASBOs on application and instead working in the County Court and the Youth Court on Crime Prevention Injunctions. The Court may make a Criminal Behaviour Order against an offender only on application of the prosecutor. In most cases this will be the CPS, but it could be a local authority if it is prosecuting a case. In addition, there would be a reduction in the burden on local authorities as they would no longer be involved in agreeing 'dispersal zones'.
 - iv) **Registered providers of social housing:** There is unlikely to be an impact given social landlords already use the Anti-social Behaviour Injunction so there would be limited change for them as the Crime Prevention Injunction has a similar application process to the ASBI.
 - v) **Youth Offending Teams:** Any additional work for Youth Offending Teams would depend on whether volumes of orders on young people increased. The only formal requirement would be for the Youth Offending Team (YOT) to be consulted if the order is on someone under-18, though the prosecutor should be made aware of and take into account the views of other agencies if raised.
 - vi) **Her Majesty's Courts and Tribunals Service (HMCTS):** There would be a reduction in cases heard in the Magistrates' Court due to the removal of the 'stand-alone ASBO' but an increase in cases in the County Court and the Youth Court due to the broadening out of who could apply for injunctions. Impacts on fee income and court costs have been addressed in section E.
 - vii) **Crown Prosecution Service (CPS):** Our best estimate is that these changes will lead to a net saving for the CPS as, on the basis of current trends and data, orders the volume of orders issued is likely to continue to decrease. The CPS would not prosecute breach of the Crime Prevention Injunction as it would be contempt of court rather than a criminal offence. However, there are a number of risks surrounding these assumptions which could mean that the number of cases that fall to the CPS could increase. This could mean that proposals are cost neutral for the CPS. These risks will be discussed in section E.
 - viii) **National Offender Management Service (NOMS):** The addition of positive requirements may increase work for probation, but only if local funding were provided (as the court cannot order requirements which are not available and funded locally).
 - ix) **Legal Services Commission (LSC):** We estimate that legal aid costs will reduce as volumes of orders (and any resulting breaches) are likely to follow current trends or reduce. In addition,

³ Ipsos MORI Home Office public opinion polling

⁴ Research by Myhill and Beak (2008) found that people are more likely to be confident if they perceive low levels of ASB in their neighbourhood and if they believe there is less crime than in recent years. BCS 2008/09 data found that respondents who perceived there to be less crime in the local area than two years previously were more likely to agree that the police and local councils were dealing with crime and ASB issues that matter in the area.

legal aid costs for anti-social behaviour cases are lower in the County Court than in the Magistrates' or Crown Courts. We have carried out sensitivity analysis in case volumes of applications increase in relation to current trends.

- x) **Prison Service:** The removal of the ASBO on application should reduce pressure on prison places, as the replacement would have a lower maximum sentence on breach (2 years rather than 5 years).
- 9) In assessing the relative impact of these proposals on the organisations listed above, we have consulted widely. Within Government with Department of Health, HM Treasury, Department for Transport, Department for Education, Department for Environment, Food and Rural Affairs, Cabinet Office, Ministry of Justice, Department for Communities and Local Government, HM Courts and Tribunals Service, Crown Prosecution Service and the Attorney General's Office.

B. Rationale

- 10) Anti-social behaviour is still the local crime and policing issue that matters most to the public.⁵ The Crime Survey for England and Wales in the year ending June 2012 shows that 15 per cent of people perceive high levels of anti-social behaviour in their area, although this has decreased slightly in recent years.⁶
- 11) Civil powers to tackle anti-social behaviour were intended to prevent the kind of sustained harassment visible in some high-profile cases such as that of Fiona Pilkington, and give the police an alternative to criminal prosecution where it was difficult to prove that an offence had been committed or where victims were afraid to give evidence. However, victims and practitioners alike have told us that many of the formal powers currently available are bureaucratic, slow and expensive. In 2010, a Home Office review⁷ found that:
- i) there are simply too many different powers, which is confusing for practitioners and the public. This was demonstrated in the response to our consultation (see below), as the vast majority of respondents supported the idea of simplification. This can result in agencies focusing on a handful of measures they are familiar with; and
 - ii) practitioners see bureaucracy and cost as the greatest barriers to effective use of the current powers. Formal tools – particularly the ASBO – since a court of appeal ruling in 2002 meant it requires a criminal, rather than civil, standard of proof – are expensive and slow compared to the informal ones. This may partly explain why use of the ASBO has declined steeply⁸. ASBOs are also now more often attached to a criminal conviction than used before an offence has been committed;
- 12) At the same time the latest Anti-social Behaviour Order (ASBO) statistics show that the cumulative breach rate for ASBOs is high with 57 per cent having been breached at least once and 43 per cent had been breached more than once.⁹ This is despite the fact that more than half of offenders proved to have breached their order receive an immediate custodial sentence. There is also huge variation in breach rates between different areas and different age groups. For example 72.1 per cent of ASBOs on 10-11 year olds have been breached, compared with 50.9 per cent of ASBOs on individuals aged 21 and above.¹⁰

⁵ Based on Ipsos MORI Home Office public opinion polling.

⁶ Office for National Statistics (ONS), Crime in England and Wales – Quarterly Release, June 2012

⁷ Findings from the review were published in the anti-social behaviour consultation, which was published in February 2011: <http://www.homeoffice.gov.uk/publications/consultations/cons-2010-antisocial-behaviour/>

⁸ Latest Ministry of Justice figures show that the number issued has fallen by almost 60 per cent since 2005.

⁹ This is the cumulative breach rate between 2000 and 2011 and is used to present an overall indication of how ASBOs have been breached since introduction (as an ASBO could be given in one year and breached in another). ASBO breach data are compiled by matching records of ASBOs issued with ASBOs breached. The nature of this matching process means that ASBO breach data are subject to minor revision each time they are published. Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used. These data can be found at: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/asbo-stats-england-wales-2011/>

¹⁰ Taken from MoJ statistics.

- 13) Practitioners have also told us what works¹¹ in tackling anti-social behaviour. They know that a balanced response, incorporating elements of both enforcement and prevention is essential, especially for perpetrators with complex needs. High-end, formal interventions such as ASBOs are more likely to succeed when they are combined with support services aimed at addressing the underlying causes of anti-social behaviour.
- 14) The review¹² was also informed by recent research commissioned by the Home Office¹³ which identified two key types of perpetrator:
- i) those whose anti-social behaviour was 'transitional', committed when the individual was adapting to a specific life change (e.g. adolescence, moving out of the family home, following a divorce etc); and
 - ii) those whose behaviour was persistent and 'entrenched', partly as a result of underlying factors such as substance abuse, mental health issues or a dysfunctional family background.
- 15) The group whose behaviour is persistent is far smaller, but their actions are higher impact in terms of both the safety of the community and the cost to the tax-payer. Formal, court based tools, are designed to deal with this small and problematic group.
- 16) There is recognition among practitioners that much of the most serious anti-social behaviour is committed by a persistent minority of people with deep-rooted problems, and this is the group who are currently given orders such as ASBOs (both on conviction and on application), and Anti-Social Behaviour Injunctions. However, take-up by applicant authorities (e.g. the local authority or the police) of the support designed to help people address those problems has been very low. For example, only 8 per cent of ASBOs issued to young people since 2004 had a supportive order attached.¹⁴ There are a number of reasons for this, for example lack of awareness that the order is available and also cultural differences between agencies around whether court mandated support is appropriate.¹⁵ The Intervention Order has never been used as the legislation provided very narrow parameters about the type of support that can be included, and this has not proved practicable in reality.
- 17) Informal tools can be very effective at dealing with anti-social behaviour by the vast majority of perpetrators. For example the National Audit Office found that 65 per cent of those who received an Acceptable Behaviour Agreement did not receive another intervention.¹⁶
- 18) Given the level of public concern, and the amount of money agencies spend dealing with local anti-social behaviour¹⁷, there is a clear rationale for developing a set of simple, faster, more effective formal powers, to sit alongside the informal powers in place for dealing with anti-social behaviour. These formal powers are vital in tackling the behaviour of the small minority of perpetrators who do not respond to informal approaches to dealing with their anti-social behaviour, e.g. warning letters, restorative justice, mediation etc.

Public Consultation

- 19) The consultation document, '*Putting Victims First: More Effective Responses to Anti-social Behaviour*', was launched on 7 February 2011. It set out proposals to reform the current formal powers for tackling anti-social behaviour, to ensure that the police and their partners can act more quickly and effectively to protect the public. The consultation closed on 17 May 2011, and a copy of the consultation can be found at <http://www.homeoffice.gov.uk/publications/consultations/cons-2010-antisocial-behaviour/>.

¹¹ Cooper et al. 2009 Exploration of local variations in the use of anti-social tools and powers Home Office Research Report 21. Clarke et al. 2011. Describing and assessing interventions to address anti-social behaviour.

¹² In 2010, the Home Office conducted an internal review of the tools and powers available to anti-social behaviour practitioners.

¹³ Clarke et al. 2011. Describing and assessing interventions to address anti-social behaviour

¹⁴ Taken from Ministry of Justice data on the number of Individual Support Orders issued.

¹⁵ Taken from the summary of research into ASBOs given to young people between January 2004 and January 2005: <http://yjbpublications.justice.gov.uk/Scripts/prodView.asp?idProduct=310&eP=>

¹⁶ NAO 'Tackling Anti-social Behaviour' 2006

¹⁷ In 2006, the NAO estimated the annual cost at over £3 billion

- 20) There was a high level of public interest in the consultation, with over 4,000 hits on the consultation website and over 1,000 responses. The Home Office Crime and Anti-Social Behaviour Unit (CASBRU) also hosted 14 half-day workshops in 7 cities across England and Wales, discussing the proposals with over 600 practitioners from local authorities, social landlords and the police. In addition, the Parliamentary Under Secretary for Crime and Security hosted a roundtable discussion with victims of anti-social behaviour to hear their perspectives on anti-social behaviour reform.
- 21) Overall, the reaction to our proposals has been positive, with many practitioners supporting our aim of simplifying the current system.
- 22) Most respondents were in favour of including positive requirements to address underlying causes of anti-social behaviour in the Criminal Behaviour Order and Crime Prevention Injunction. The Criminal Behaviour Order will replace the ASBO on conviction and the Drinking Banning Order on conviction. The Crime Prevention Injunction will replace the ASBO on application, the Anti-Social Behaviour Injunction (ASBI), the Drinking Banning Order on application, the Individual Support Order and the Intervention Order. Practitioners recognise 'enforcement without support' as a key failing of the current ASBO regime, and see the potential for positive requirements to reduce breach rates in the longer-term. However, some have also suggested that positive requirements may be breached more often in the short-term as perpetrators try to change entrenched behaviour
- 23) One of the key benefits of the Crime Prevention Injunction is that it takes a well-regarded and popular¹⁸ tool (i.e. the Anti-social Behaviour Injunction (ASBI)) that currently only social landlords can use to tackle anti-social behaviour, and makes it available to a range of other agencies. We had strong feedback in the consultation that social landlords wanted to preserve existing features of the ASBI in any new proposals for example that it should be heard in the County Court.
- 24) The proposed police Dispersal Powers divided opinion. Some respondents supported the move to reduce bureaucracy by allowing the police to disperse troublemakers without designating an area as a 'dispersal zone' in advance. However, others raised concerns about safeguards, highlighting the risk that young people could be moved from one area to another that was less safe or that the power could be used disproportionately against some groups. This was one of the reasons that the consultation document specifically asked about what safeguards should be put on the new power.

C. Objectives

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

D. Options

Option 1: do nothing.

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

Option 2: to legislate

- 27) This would include making changes to streamline and simplify the anti-social behaviour toolkit to meet the aims outlined above. This involves the introduction of three strands.

¹⁸ This was a view supported by many of the police and practitioners who responded to the consultation

- i) **Introduce a Criminal Behaviour Order.** The Criminal Behaviour Order would be an order, available following a conviction for any criminal offence and in any criminal court. The order would include any prohibitions to stop the anti-social behaviour and could include to address the underlying the causes for the anti-social behaviour and prevent the individual from being anti-socially in the future, and could be related to wider (relevant) behaviour than that proved through the criminal conviction the order would be attached to. This would replace the ASBO on conviction, interim ASBO on conviction and Drinking Banning Order on conviction. An interim Criminal Behaviour Order would also be available;
- ii) **Introduce a Crime Prevention Injunction.** A purely civil injunction with a civil standard of proof (i.e. on the balance of probabilities), making it much quicker and easier to obtain (potentially a matter of hours rather than months) than the stand-alone ASBO which it will replace. The injunction would have prohibitions and could also have requirements in it. Breach of the injunction would be a contempt of court and could carry serious penalties, including custody. The Crime Prevention Injunction would replace the ASBO on application, Drink Banning Order on application, interim ASBO on application, Anti-social Behaviour Injunction, interim Anti-social Behaviour Injunction, Individual Support Orders and Intervention Orders. An interim Crime Prevention Injunction would also be available;
- iii) **Introduce Dispersal Powers.** A new power to direct any individual who has committed, or is likely to commit, anti-social behaviour to leave a specified area and not return for a specified period of up to 48 hours, and to confiscate related items. This would replace the Direction to Leave and Dispersal Order.

28) The proposed Criminal Behaviour Order and Crime Prevention Injunction would replace the ASBO and Drinking Banning Orders, along with the other powers to deal with anti-social individuals. The Dispersal Powers would consolidate and enhance police powers to disperse individuals or groups on grounds of crime or anti-social behaviour. The table below provides a summary of the changes. More detailed breakdowns may be found at Section E.

Existing Powers	New Powers
ASBO on Conviction (CRASBO)	Criminal Behaviour Order (also available as an interim Order)
Interim ASBO on Conviction	
Drinking Banning Order on Conviction	
ASBO on application	Crime Prevention Injunction (also available as an interim Injunction)
Interim ASBO on application	
Individual Support Order	
Intervention Order	
ASB Injunction	
Interim ASB Injunction	
Drinking Banning Order on application	
Dispersal order (section 30 ASB Act 2003)	Dispersal Powers
Direction to leave (section 27, Violent Crime Reduction Act 2006)	

New Powers

- 29) The **Criminal Behaviour Order** will be an order, available following a conviction for any criminal offence and in any criminal court. This would replace the ASBO on conviction and the Drinking Banning Order on conviction. The order could be applied for by the CPS, either at its own initiative, or following a request from the police or relevant local authority.
- 30) Breach of the order would be a criminal offence, with a maximum sentence of five years in custody. This would demonstrate to the offender and the community the seriousness of the breach.
- 31) The **Crime Prevention Injunction** would be a purely civil injunction available in the County Court for adults and the Youth Court for under 18 year olds. The injunction would replace a range of current tools including the ASBO on application, the Anti-Social Behaviour Injunction (ASBI), the Drinking Banning Order on application, intervention orders and individual support orders. We would allow a wide range of applicants in order to reduce the burden falling on any particular agency to make applications on behalf of others. The following agencies would be able to apply: the police (including

the British Transport Police), local authorities, private registered providers of social housing, NHS Protect, Transport for London and the Environment Agency.

- 32) Breach by an adult will be contempt of court, punishable in the usual way by the County Court by up to two years in prison or an unlimited fine. Breach by someone aged under 18 could result in a curfew, activity or supervision requirement. Or, as a very last resort and, in view of the severity or extent of the breach by the court, detention for up to three months. A detention order cannot be made against a person aged under aged 14. Questions were raised in the consultation as to whether it is proportionate to have a custodial penalty for breach at all. As a result, we will continue to seek the views of individuals and organisations as to whether a custodial sentence should be available for breach of a Crime Prevention Injunction by a young person. The Government is committed to ensuring the judiciary have tough powers at their disposal on breach, but also that custody is used in a proportionate way. This is something we will return to as part of the process of pre-legislative scrutiny.
- 33) The police **Dispersal Powers** would enable police officers to require a person who has committed, or is likely to commit, anti-social behaviour to leave a specified area and not return for a specified period of up to 48 hours. No advance designation or consultation would be required. The test would be 'that the constable has reasonable grounds for suspecting that the person's behaviour is contributing or is likely to contribute to anti-social behaviour or crime or disorder in the area and that the direction is necessary'. The constable can also ask the person to surrender any item they believe is likely to be used in the anti-social behaviour.
- 34) The direction would have to be given in writing, stating the name of the individual(s) being dispersed to ensure they are clear where they are being dispersed from, and in case the direction is later challenged. If it is not reasonably practicable to give the direction in writing, it can be given orally and a written record made. The police could also take photographs of the person without their consent, again to assist with enforcement and monitoring. An individual who fails to comply with the direction commits an offence and is liable to imprisonment for up to 3 months and/or a level 4 fine. An individual who fails to surrender items requested by the constable also commits an offence and may receive a level 2 fine.

E. Appraisal (Costs and Benefits)

General Assumptions and Data

- 35) The following appraisal considers the costs and benefits associated with implementation of the proposed policy changes in comparison with the baseline 'do nothing' option. General assumptions used throughout the analysis have been set out below, with any additional assumptions discussed as they arise. It is important to note that most costs and benefits identified are realised as opportunity costs and savings so are neither financial costs nor cashable savings.¹⁹
- 36) The analysis carried out below has been completed using data from Ministry of Justice statistics. Where published data were not available, anecdotal evidence has been sought from practitioners where possible.²⁰ The costs that have been estimated are based on often incomplete data with many additional, necessary assumptions made. Relevant sensitivity analysis has been undertaken to try to demonstrate the impact of error in these estimates. It has not been possible to quantify any benefits in terms of reduced offending or reduced levels of anti-social behaviour associated with the powers in the current toolkit or those in the reformed toolkit as there is little supporting evidence of the impact of current tools in reducing levels of offending.
- 37) Future volumes of anti-social behaviour powers have been predicted using the trends in current usage over the last 3 years²¹, and vary for each order. Trends have been used as all the current anti-social behaviour powers considered in this appraisal have been experiencing either a continued increase or decrease in use for at least the 5 years up to the latest available data for 2011. Future

¹⁹ With the exception of legal aid costs which are financial.

²⁰ In the absence of published data, this is the best evidence available, however it can lead to inaccuracies.

²¹ In the case of some, more recently introduced orders this will be since introduction. While data for many orders are available for more than the last 3 years, the last 3 years give the best indication of current trends i.e. excluding the peak in ASBOs issued in 2005/06.

volumes of the proposed new powers have been assumed to follow broadly similar trends to the powers they are designed to replace, particularly as they are still aimed at the same client group of individuals with persistent and 'entrenched' anti-social behaviour. In addition there will not be any increase in funding to pay for additional applications.

- 38) There is also a more general trend towards increased use of informal measures (e.g. Acceptable Behaviour Agreements)²² to deal with the vast majority of anti-social behaviour (for example, that committed by those whose anti-social behaviour is 'transitional') which we do not anticipate the introduction of new orders reversing. It is not anticipated that in our best estimate scenario the introduction of more effective powers will lead to increased demand, or that there would be a significant net widening effect²³. However sensitivity analysis has been undertaken on volumes in order to demonstrate the potential scale and impact of error if the assumptions made in this appraisal section do not hold. The estimated additional volume of orders expected to be issued are set out under Option 2 and this is used to estimate the additional costs. Crown Prosecution Service (CPS), and Legal Services Commission (LSC) savings have been identified as part of Option 2 and, where these occur, they are treated as benefits.
- 39) The costs associated with using each power vary so are described individually for each order as they arise in this section. Breach rates are also assumed to vary by order.²⁴ Breach hearings are assumed to have similar unit costs depending on whether the breach is treated as a criminal offence (as for ASBOs on conviction, ASBOs on application, Individual Support Orders, and the proposed Criminal Behaviour Order), or a contempt of court offence in a civil court (as for ASBIs and the proposed Crime Prevention Injunction). These costs are set out below.
- 40) The length of time required by each agency²⁵ involved in the process of applying for the current orders as well as dealing with breaches for those orders have been estimated on the basis of anecdotal evidence provided by the police and practitioners. This includes estimates of how much court time is required for issue and breach hearings. As there is a lack of data available, these are considered the best estimates.
- 41) Crown Court statistics show that almost 70 per cent of all defendants prosecuted for all offences entered a guilty plea²⁶. This has been applied to all breaches considered in this impact assessment, as a proxy for the percentage of defendants pleading guilty at all breach hearings. The amount of time required for a contested or uncontested hearing are assumed to vary and will be discussed separately later in the section. It is possible for those prosecuted for a criminal breach of licence to be heard in the Crown Court. Statistics from the Ministry of Justice suggest that approximately 25 per cent of ASBO breach hearings take place in the Crown Court. It is assumed that all hearings for those aged under 18, whether issue or breach, are heard in the Youth Court²⁷. Approximately 25 per cent of adult breach hearings which are assumed to be heard in the Crown Court²⁸.
- 42) Several disposal outcomes are assumed for various orders including custodial sentences, community orders, and fines. It is assumed that the average cost of a prison place is £30,000²⁹. Probation costs are £2,700 per place per year. The unit cost of a community sentence is £2,700³⁰. There is a cost associated with fine enforcement which we are unable to estimate. Ministry of Justice statistics state that over 50 per cent of defendants found guilty of breaching their ASBO are given a custodial

²² For example, voluntary data returns from Community Safety Partnerships from 2003-2009 showed use of Acceptable Behaviour Agreements increasing as ASBO use declined.

²³ With the exception of the Directions Power which will be discussed in more detail later in this section.

²⁴ Based on data available from the Ministry of Justice.

²⁵ Police, practitioners (e.g. local authority staff or housing association staff), HMCTS and CPS.

²⁶ Ministry of Justice, Crown Court statistics, 2011. Similar statistics were not available for the magistrates' court so Crown Court statistics have been applied as the best available proxy.

²⁷ Which is assumed to incur the same unit costs as the Magistrates Court

²⁸ Similar assumptions were made about adult breaches – based on Ministry of Justice figures. This may prove to be an underestimate if fewer young people receive less serious sentences but more detailed data to determine this was not available.

²⁹ NOMS management accounts addendum published in 2011.

³⁰ The costs are based on the 2008/09 cost in the Ministry of Justice Cost Benefit Framework, inflated using HMT data to get 10/11 nominals. These are converted into real figures in 10/11 prices and the SR real efficiencies from 2010/11 are applied on top. Ministry of Justice figures - £2,700 per offender until the end of the spending review period and £2,600 per offender thereafter.

sentence. The average sentence length for breach of an ASBO is 5.2 months³¹. It is assumed that half of this is served in prison.³² Disposal outcomes are only known for the ASBO on application and ASBO on conviction³³, for other orders data are not available and there is little robust anecdotal evidence so no costs have been estimated. Therefore costs and benefits of implementing the Crime Prevention Injunction will be incomplete.

- 43) The costs of monitoring orders and the costs of appeals have not been quantified in this appraisal due to a lack of data regarding both the extent to which orders are monitored and the proportion of orders which are appealed. It is assumed that there is likely to be no change to the unit cost of these, that is the cost of monitoring or appealing one of the proposed orders will be the same as the cost of monitoring and appeals associated with the current orders.

Unit costs

- 44) Police unit costs used in this appraisal are based on estimates from 2008, relying heavily on ASHE (Annualised Survey of Hours and Earnings) and CIFPA (Chartered Institute of Finance and Public Accounting) data. It is estimated that one hour of police officer³⁴ time costs approximately £39. Practitioner (e.g. local authority and social landlords) costs have been estimated to be £45 per hour, based on practitioner advice and involve the relevant on-costs. Costs relating to the CJS³⁵ have been provided by MoJ. Relevant HMCTS court costs and fees have been included in the modelling³⁶. Court fees are included in the modelling of financial impacts on HMCTS but are treated as transfers between HMCTS and applicants. Court fees are assumed to be £200 for issue of an ASBO and interim ASBO, £175 for issue of an ASBI and £80 for breach of an ASBI. CPS case costs are estimated to be £137 per defendant in the Magistrates Court and £2,397 per defendant in the Crown Court³⁷. Legal aid available for stand-alone ASBOs and ASBO on conviction issue hearings is assumed to be £570 and civil legal aid for anti-social behaviour orders in the County Court is assumed to be £220³⁸. Legal aid for ASBOs in the Magistrates' Court for 2011/12 is £515.³⁹ This is assumed to be both for issue and breach. Criminal breach hearings in the Crown Court are assumed to have a maximum of £2,000 of legal aid available⁴⁰. For breach hearings in the County Court it is assumed that the same amount of legal aid is available as for issue hearings. Assumptions as to legal aid eligibility vary depending on which court the hearing takes place in; 75 per cent of defendants are assumed to be eligible for legal aid in the Magistrates Court, 28 per cent in the County Court, and 100 per cent in the Crown Court. It is assumed any anti-social behaviour hearing for those under the age of 18 that there is 100 per cent eligibility for legal aid.⁴¹
- 45) Unit costs presented in the appraisal section below are for those over the age of 18. Unit costs for those under the age of 18, taking into account the different legal aid eligibility and, on occasion, different court costs are presented in the footnotes but have been used in the modelling. Total costs and benefits have been calculated using separate costs for those under and over the age of 18.
- 46) In order to understand the costs and benefits of the change, it is first necessary to specify how the current orders work, and what the changes would be under the proposals. This is being presented according to groups of orders in order to facilitate comparison.

³¹ Ministry of Justice figures – average across breaches of the ASBO on conviction and stand-alone ASBO

³² This is a standard CJS assumption that only half of custodial sentences are served in prison.

³³ Ministry of Justice statistics

³⁴ Rank: sergeant or below

³⁵ That is HMCTS, CPS, LSC, prisons, and probation unit costs

³⁶ HMCTS figures.

³⁷ It is important to note that these are not always applicable. It is clearly referenced in the appraisal when they are.

³⁸ Both are MoJ estimates of average legal aid available for ASB applications

³⁹ Figures provided by Ministry of Justice.

⁴⁰ Figures provided by MoJ. This maximum has been assumed for all Crown Court breach cases but will be an overestimate, as it is based on a breach hearing requiring a full day in court, which anecdotal evidence suggests is the upper bound for the most complex breaches.

⁴¹ Advice taken from MoJ; for ASB hearings the means test for legal aid would be based on the income of those under 18 and not their parents.

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

	Magistrates Court	Crown Court	County Court
Police officer ^a	£40	£40	£40
ASB practitioner ^b	£40	£40	£40
CPS costs ^c	£137	£2,397	-
HMCTS costs ^d	£369 ^e	£665	£365 ^f
Legal aid costs	£515 ^g	£2,000 ^h	£220 ⁱ
Cost per month of immediate custody ^j	£2,500	£2,500	£2,500
Cost per month of probation ^k	£225	£225	£225
Cost of community sentence ^l	£2,700	£2,700	£2,700

Note:

- a) Unit cost for an hour of a police officer's time. This is a Home Office estimate of the cost of police time (estimated in 2008 using Chartered Institute of Public Finance and Accounting (CIPFA) and Annual Survey of Hours and Earnings (ASHE) data, then updated to account for inflation using the Treasury gross domestic product (GDP) deflator series. Costs are for 2010/11.
- b) Unit cost for an hour of ASB practitioner's time. This has been provided by practitioners.
- c) CPS costs are per case for 2010/11 and have been provided by the Ministry of Justice.
- d) All HMCTS costs have been provided by HMCTS and are for an hour of court time.
- e) Cost per hour for a district magistrate for breach of an ASBO. For issuing an ASBO a lay magistrates' legal advisor would be used costing £60 per hour. Court fees of £200 on issue of an ASBO or interim ASBO.
- f) Cost per hour for a circuit judge. Court fees of £175 on issue and £80 on breach are applicable here.
- g) Costs for 2011/12 in the magistrates' court. Assumed to be applicable for both issue and breach. Provided by Ministry of Justice.
- h) Estimated Crown court legal aid available. This could underestimate costs. Provided by Ministry of Justice.
- i) Based on annual yearly costs of a prison place of £30,000 from Ministry of Justice.
- j) The costs are based on the 2008/09 cost in the Ministry of Justice Cost Benefit Framework, inflated using HMT data to get 10/11 nominals. These are converted into real figures in 10/11 prices and the SR real efficiencies from 2010/11 are applied on top. The costs are based on the 2008/09 cost in the Ministry of Justice Cost Benefit Framework, inflated using HMT data to get 10/11 nominals. These are converted into real figures in 10/11 prices and the SR real efficiencies from 2010/11 are applied on top.

Transition costs

- 47) Transition costs resulting from the introduction of all tools under Option 2 are expected to be minimal as proposed orders and injunctions are similar to current orders used. Some additional training may be required for ASB practitioners in local authorities on Crime Prevention Injunction as they will not be familiar with the current Anti-Social Behaviour Injunction.

Introduce a Criminal Behaviour Order

Current orders (the 'do nothing' option)

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

Introduce a Criminal Behaviour Order

Order	Test to get order	Process to get the order	Age range	Minimum/ Maximum term	Court on breach	Standard of proof on breach	Max sentence
Criminal Behaviour Order (CBO)	That the order will help in preventing the offender from engaging in anti-social behaviour	A civil order attached to a Criminal conviction in the Crown Court, Magistrates Court, Youth Court. Applied for by the prosecutor. The local authority and the police can also formally request the CPS make an application.	10 and over	Adults: Minimum: 2 years, maximum: until further order U18s: Minimum 1 year, maximum 3 years	Criminal offence heard in Crown Court, Magistrates Court or Youth Court. Prosecuted by CPS.	Beyond reasonable doubt	(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
Interim Criminal Behaviour Order	That it is just to make an interim CBO	As above	10 and over	As with full CBO, but in practice, these orders only last until the court can schedule a full CBO hearing	Criminal offence heard in Crown Court, Magistrates Court or Youth Court. Prosecuted by CPS.	Beyond reasonable doubt	(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

Introduce a Criminal Behaviour Order

48) This section sets out, in broad terms, what the likely costs to the CJS might be of this change. Given the inherent uncertainty associated with future forecasts, the final presentation is a best estimate based on available data and evidence. However, sensitivity analysis has been performed in order to provide a range of likely costs if different scenarios occur. The figures presented do not necessarily represent wholly additional financial costs to the criminal justice system.

49) The main changes between the 'do nothing' option and introducing a Criminal Behaviour Order, are that:

- i) court mandated positive requirements could be included in a civil order on conviction¹;
- ii) the system would be simplified as there would be fewer different types of orders available;
- iii) the minimum terms for the new orders would be different for young people (1 year instead of 2 years), and the maximum terms would also be different for young people (3 years instead of 'until further order');
- iv) the local authority and the police could request that the CPS apply for an order (only the police can do this at present);
- v) the prosecution would have to prove that the order would assist in the prevention of future anti-social behaviour; and
- vi) the court could not make an order 'of its own volition' (i.e. without an application from the prosecution) – though applications could be made orally with the permission of the judge.

Transition costs

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

Number of additional orders

51) We have assumed as a baseline that the volume of ASBOs on conviction issued will decline by approximately 10 per cent each year², which follows the baseline trend observed in Ministry of Justice figures following the peak in their issuing in 2005/06. We have no evidence to suggest that this decline will stop or that the baseline should be fixed at a certain level going forward. We have not included the volume of Drinking Banning Orders in this estimate as national data are not available. It is assumed that the volume of Criminal Behaviour Orders will decline following the current trend because of the broader factors which limit the use of such orders on conviction and the trend among practitioners towards using informal measures to tackle the majority of anti-social behaviour.

52) A change in the volume of people requiring such orders is also not expected to occur as these orders are aimed at the small sub-group of individuals whose behaviour is persistent and 'entrenched' (as outlined above). We do not expect these orders to be used on those individuals whose anti-social behaviour is 'transitional' who would currently get an informal intervention or potentially an earlier stage court tool like an injunction.

53) However, given the difficulty of predicting future volumes of these orders and uncertainties surrounding impacts, we have modelled other possible scenarios included in the risks section later on in this appraisal section. Upper and lower bounds have been calculated and costs included. Volumes of interim Criminal Behaviour Orders have not been estimated due to a lack of data on current interim ASBOs on conviction. However, it is not thought that there will be any change from the baseline volumes and trends.

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

² For the first four years considered in the appraisal period and 5 per cent in all years thereafter.

Unit costs

- 54) The unit cost of issuing a Criminal Behaviour Order to all agencies involved³ is estimated to be broadly the same as the unit cost of issuing an ASBO on conviction due to the similar process involved in obtaining one; it estimated to be approximately £1,000⁴. This may be an over-estimate as we will be simplifying the process for applying for the Criminal Behaviour Order, and reducing bureaucracy (our changes to do this are outlined above). The unit cost estimated includes 3 hours of police time, and 6 hours of ASB practitioner time⁵. While often little court time is required to hear an ASBO on conviction, 30 minutes of court time has been included in the unit cost estimate to allow for cases which are adjourned between the sentencing of the original criminal offence and the ASBO on conviction hearing. However, the proportion of ASBOs on conviction which require an adjournment is not known so this could well be an overestimate.
- 55) No additional CPS costs are assumed to be necessary. Legal aid will be available for the issuing of a Criminal Behaviour Order and is estimated to be the same as that available for issue of an ASBO on conviction⁶. It has not been possible to quantify the costs to the applicant of the positive requirement elements of a Criminal Behaviour Order, but any non-voluntary positive requirements will add to the unit cost. This is likely to lead to the ASBO on conviction unit cost being an underestimate of cost of a Criminal Behaviour Order which includes positive requirements.
- 56) We are not specifying in legislation the types of positive requirements which could be imposed through the order, other than that they must assist in the prevention of future anti-social behaviour. In relation to positive requirements, the key point in terms of impact is that before making an order which includes any positive requirements, the court must receive written or oral evidence from the person who would supervise compliance with them. This will ensure that the requirement is available, appropriate and enforceable. In addition, we expect that the majority of positive requirements would typically be a service that is being provided in any case (for example, local authority funded community mediation), so the additional costs of providing the actual requirement should not be significant assuming spare capacity. Without spare capacity, there will still be an opportunity cost to providing these positive requirements. The cost of providing the requirements could fall to a range of agencies e.g. local authorities, housing associations, probation but only if they agreed to it at a local level before the application was made.
- 57) The flexibility in the legislation means that the types of positive requirements which could be imposed would vary from low to medium to high cost depending on what was required in the situation and what was available locally. The following list gives examples of low, medium and high cost requirements as a guide:
- i) low cost requirements: examples could include requiring someone to always have their dog muzzled when in public spaces; or requiring reparation and restorative approaches such as writing a letter of apology to the victim(s). These would have no additional costs other than monitoring costs by whoever proposed the requirement in the first place (usually either the local authority or the police);
 - ii) medium cost requirements: examples could include requiring someone to attend a mediation session run by existing mediation services⁷ or to participate in mentoring. These services would generally be paid for by either the local authority, or sometimes the registered provider of social housing (if the individual was a tenant), and could be provided by a voluntary sector provider. A mediation session provided by a charity would incur a cost to the local authority or registered provider of social housing. Another medium cost option could be an individual being required to attend parenting group sessions already being run by the local Youth Offending Service or Children's Services. Here the onus would be on the officer (usually police or local authority) obtaining the order being able to access (and pay for if required through local commissioning arrangements) a place on a group; and

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

⁴ For someone over the age of 18. For someone under the age of 18 this figure will be approximately £1,200.

⁵ Due to a lack of data, both police and practitioner time necessary have been estimated on the basis of anecdotal police evidence.

⁶ This is an average figure of £570 obtained from the Ministry of Justice. It is estimated that 75 per cent of defendants aged over 18 in a Magistrates Court and 100 per cent of defendants either aged under 18 or in a Crown Court will be eligible for legal aid, based on MoJ advice.

⁷ For example, the social landlords mediation services run by some local authorities (e.g.

http://www.manchester.gov.uk/info/500216/disputes_conflicts_and_mediation/4313/mediation_services_for_registered_social_landlords/1)

iii) Higher cost requirements: These could include attending a multi-systemic therapy session organised by a local Youth Offending Team (again, paid for by the local authority), or attending alcohol or drug treatment or anger management. Although we cannot provide unit costs for all of these different types of requirement, the following provides some examples of different unit costs as a guide. The average cost per individual receiving alcohol treatment in the community is about £1,600.⁸ The net cost of residential structured drug treatment was estimated at £4,531 in the 2009 Home Office Drug Treatment Outcomes Research Study (DTORS) report.⁹ The standard unit cost for probation is £2,700¹⁰ and the standard unit cost for an Individual Support Order led on by the Youth Offending Team is £1,800¹¹. Even these higher cost requirements may not require additional funding at a local level, as for example, combined funding from the Home Office and Department of Health for drug treatment services is allocated annually to all 149 Drug Action Team partnerships which means that all residents in that area can access a range of treatment services at no cost at point of delivery.

58) It has not been possible to quantify these costs due to the number of different variations in types of requirements, and the lack of any data to be used as a proxy to estimate the number of orders which may contain positive requirements (as the only existing civil orders containing both positive and negative requirements are gang injunctions, and these have not been in place long enough to provide sufficient data).

59) The estimated volume of additional orders and the associated cost is outlined in table E.2 below.

Breach rate:

60) Given the difficulty of predicting future breach outcomes for these orders, we have modelled a best estimate scenario in which the ASBO on conviction breach rate is used as a proxy for the Criminal Behaviour Order breach rate. Sensitivity analysis has then been carried out to allow for some change in the breach rate as a result of changes made to the order. This sensitivity analysis can be found at the end of the Criminal Behaviour Order section. The unit cost of a breach hearing¹² is assumed to be the same as that of the ASBO on conviction due to the criminal nature of the breach and the similar process involved and is estimated at approximately £2,200¹³. The unit cost estimated includes 3 hours of police time and 5 hours of practitioner time together with between 0.5 and 5 hours of court time depending on whether the defendant submits a guilty plea and whether the case is heard in a Magistrates, Youth¹⁴ or Crown Court. CPS costs will be relevant and are those set out in the assumptions at the beginning of this appraisal. Legal aid is assumed to be available through the Standard Fee Scheme, with a maximum of £515 available¹⁵ in the Magistrates Court. Crown Court legal aid costs have also been considered.

Disposal outcomes:

61) These are assumed to be the same as for the ASBO on conviction due to the same maximum penalties being available for breach. This could lead to a potential uptariffing of sentences for those orders that would previously have been dealt with through a DBO on conviction, as breach of a DBO on conviction has a maximum sentence of a level 4 fine so there is the potential that additional prison and probation costs will be incurred. However, we are proposing giving the police and others flexibility to deal with a first breach immediately (where appropriate) using informal measures such as restorative justice, rather than going straight back to court which could reduce the number of breaches brought to court. However, these risks have not been possible to quantify and, as a result,

⁸ "Unit Cost of Health and Social Care 2010"

⁹ http://www.dtors.org.uk/reports/DTORS_CostEffect_Summary.pdf

¹⁰ 2010/11 figures provided by Ministry of Justice

¹¹ Estimated to require 35 hours of practitioner time to administer, based on practitioner advice. No additional police or court time is assumed necessary for issue as it is attached to an ASBO.

¹² Costs fall to the police, ASB practitioners, CPS, HMCTS, and LSC.

¹³ For those over the age of 18, for those under the age of 18 it is estimated to be £2,300. This has been factored into the analysis.

¹⁴ As it is assumed that Youth Court and Magistrates Court unit costs are the same, breaches by those under the age of 18 have not been estimated separately.

¹⁵ Used on MoJ advice, taken from the LSC *General Criminal Contract 2008*. The amount available will depend on whether the breach is contested or not and where the hearing is heard with London rates higher than those for the rest of the country. For simplicity, it is assumed that for each hearing the maximum £485 is available although this will overestimate the costs. Standard assumptions of eligibility for legal aid have been applied.

it is estimated that no additional prison places will be needed. Sensitivity analysis has been undertaken on volumes and breach rates which necessarily affects the number of prison places required, this has been considered in the risks section below.

Costs of Implementing Criminal Behaviour Order:

62) Based on the available evidence, the best estimate does not anticipate any additional orders will be issued or breached as a result of introducing the Criminal Behaviour Order. Sensitivity analysis around these assumptions, including considering higher and lower breach rates, has been completed and upper and lower bound estimates are included below.

Impacts by organisation:

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

- i) **Police:** The only additional costs would be in paying for positive requirements or in increased monitoring costs as a result of positive requirements where they choose to do so. However, these costs are not known.
- ii) **Local authorities:** The additional costs for local authorities would be in paying for positive requirements or in increased monitoring costs as a result of positive requirements where they choose to do so. However, these costs are not known.
- iii) **Registered providers of social housing:** There is unlikely to be an impact because social landlords are unlikely to use the Criminal Behaviour Order as they cannot act as the prosecutor or ask the CPS directly to take forward an order.
- iv) **Youth Offending Teams:** Youth Offending Teams would already be working with any young person being given an order on conviction, as they would have been involved in the criminal part of the trial. So the proposals are unlikely to cause additional costs for Youth Offending Teams. Any costs incurred through the provision of positive requirements would be covered by the organisation proposing those requirements (generally the local authority).
- v) **Her Majesty's Courts and Tribunals Service (HMCTS):** As we are not expecting an increase in the number of Criminal Behaviour Orders applied for or the breach rate compared with the baseline, the impact of this element of option 2 on HMCTS should be minimal.
- vi) **Crown Prosecution Service (CPS):** These changes will have minimal impact on the workload for the CPS. The issuing of any additional orders, while not expected under the best estimate scenario, could lead to additional costs for the CPS. Further additional costs may be incurred if there is an increase in the breach rate of CBOs compared to ASBOs (as a result of the introduction of positive requirements).
- vii) **National Offender Management Service (NOMS):** The addition of positive requirements may increase work for probation, but only if local funding were provided (as the court cannot order requirements which are not available and funded locally).
- viii) **Legal Services Commission (LSC):** Legal aid costs are not estimated to increase as we predict that volumes of orders will follow current trends. We have carried out sensitivity analysis in case volumes of applications increase in relation to current trends.
- ix) **Prison Service:** Impact on prison places would be negligible as the maximum sentence would be the same as currently exists for the ASBO on conviction and there is no increase in breach volumes expected.

Non-quantifiable costs

64) **Monitoring costs:** The cost of monitoring Criminal Behaviour Orders has not been estimated due to a lack of data available surrounding current monitoring of ASBOs on conviction. This is partly due to poor quality data collection at the local level¹⁶, and also due to the fact that many ASBO prohibitions are monitored by the communities themselves (e.g. individual X is prohibited from going to Y Street, and those who live on Y Street are informed of this, and can call the police if individual X turns up). For these prohibitions, the only monitoring costs are the costs incurred by the applicant (usually either police or local authority) in publicising the order and communicating the terms to local communities. It is not expected that the Criminal Behaviour Order will require any additional resources for the monitoring of the prohibitions imposed through orders and as the minimum term of

¹⁶ This issue around data collection was flagged in "Describing and assessing interventions to address anti-social behaviour" HO Research Report 51

the order for young people is less than for the ASBO on conviction this may result in savings in terms of monitoring.

- 65) For those orders which included positive requirements, there may be an increase in the cost due to monitoring of those requirements in the new orders. It has not been possible to quantify these costs due to the number of different variations in types of requirements, and the lack any data to be used as a proxy to estimate the number of orders which may contain positive requirements (as the only existing civil orders containing both positive and negative requirements are gang injunctions, and these have not been in place long enough to provide sufficient data).
- 66) The costs of variation hearings and appeals have also not been quantified as these are not assumed to change post-implementation so will not represent any additional cost.

Benefits

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

Non-quantifiable Benefits

- 68) A number of changes are being proposed to remove bureaucracy associated with the current ASBO on conviction¹⁷. This should mean that Criminal Behaviour Order applications require less local authority and police time to prepare the case files and less court time to hear the cases, as the test to get the order would now have one stage rather than two (the order would just need to be proved to assist with the prevention of future 'harassment, alarm or distress' rather than having to prove further behaviour that caused 'harassment, alarm or distress as well'). This has not been possible to quantify and so the practitioner (local authority and police), court time, and CPS time required for an ASBO on conviction has been used as a proxy, which is likely to underestimate the benefits¹⁸.
- 69) We are also removing the ability of the court to impose an order of its own volition (i.e. without an application from the prosecution) – though applications could be made orally with the permission of the judge which should reduce costs associated with monitoring and enforcing orders that are not part of the relevant authorities' wider approach to dealing with anti-social behaviour in an area, and which may not be the most suitable means of dealing with the individual in question. This therefore is likely to confer benefits on all agencies involved in the issuing of Criminal Behaviour Orders as it means that no unexpected orders would be issued.
- 70) There are likely to be longer-term benefits associated with the use of positive requirements to change the behaviour of offenders, and potentially reduce future anti-social behaviour and offending. However, it has not been possible to quantify these benefits due to the broad range of potential positive requirements and the difficulties in reliably assessing how many new orders will include positive requirements. For example, there is evidence (from a C4EO literature review) that mentoring can have a positive impact in "keeping a young person on track and can be a particularly effective strategy with vulnerable young people"¹⁹. An evaluation of the alcohol treatment requirement in five sites across the Lancashire probation area found positive outcomes for offenders who participated in the evaluation in terms of alcohol use, attitudes, offending, health and relationships (Baldwin & Duffy, 2010). For example, among the 32 offenders who gave permission for their data to be accessed, the number of arrests fell significantly from 40 during the six months before starting their orders to 14 during the first six months of the order. Due to the lack of a control group it is not possible to attribute the positive outcomes to the requirement scheme only though. An evaluation of the impact of intensive family intervention projects up until March 2011 showed that there was promising reductions in the proportion of families involved in crime and anti-social behaviour.

¹⁷ Including bringing the Criminal Behaviour Order into line with other civil orders on conviction by removing the preliminary test of 'harassment, alarm or distress' and giving the judge the ability to accept an oral application if he or she deems this appropriate

¹⁸ The unit cost of a Criminal Behaviour Order is assumed to be the same as that of a CRASBO which is £1,100. The estimate has been generated using police and practitioner anecdotal evidence as well as figures from the Ministry of Justice.

¹⁹ Strategies to re-engage young people not in education, employment or training – A Rapid Review' (C4EO, 2011): http://www.c4eo.org.uk/themes/youth/files/youth-rapid-review-reengage-young-people-not-in-education-employment-or-training.pdf?dm_i=7SL,MVX0,12Q4VF,1UP2T,1

71) However, it should be noted that outcomes are assessed by key workers rather than being independently verified and there is no control group, therefore any outcomes should be treated with caution. From the respondents to the consultation who answered our question about impacts of positive requirements on reoffending in relation to the Criminal Behaviour Order, 52 per cent of them thought that reoffending would decrease. However, due to uncertainty and a lack of direct, robust evidence, no estimates have been made to quantify this.

Risks and sensitivity analysis

72) The varied assumptions surrounding the estimated volume of orders issued make it hard to accurately predict impacts at this stage, and mean that impacts will need to be kept under review as the policy develops. This is further set out in section J. Estimating Criminal Behaviour Order volumes on the basis on ASBO on conviction is assumed to be the best estimate as we do not expect a net widening of eligibility. The Criminal Behaviour Order will be only available on conviction, as the ASBO on conviction and DBO on conviction are, and the courts will no longer be able to issue them of their own volition which could lead to a decrease in the volume of orders issued, especially as the courts currently have to consider a DBO on conviction following every conviction for an offence where alcohol was involved²⁰.

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

74) A sensitivity analysis has been undertaken to try to demonstrate the potential scale and direction of error. Upper and lower bounds have been constructed for both volumes and breach rates estimated to take into account uncertainty when forecasting. The lower bound has the volume of ASBOs on conviction as well as the volume of Criminal Behaviour Orders issued remain at 2011 levels over the course of the appraisal period to try to account for the fact that volumes of ASBOs on conviction might not continue on the downward trend they have been experiencing for the past 5 years. The lower bound also uses a breach rate 10 percentage points lower than that of the ASBO on conviction to account for the potential positive impact positive requirements could have on offender behaviour. The upper bound scenario assumes that ASBO on conviction volumes continue their downward trend over the appraisal period while the volume of Criminal Behaviour Orders estimated to be issued increases at 5 per cent each year from the volume of ASBOs on conviction issued in 2011²¹. The upper bound also uses a breach rate 10 percentage points higher than that of the ASBO on conviction to account for the potential increase in breach rates due to the inclusion of positive requirements resulting in more conditions for the offender to breach. The table below demonstrates the range of costs resulting from this sensitivity analysis

Table E.2: Estimated additional volumes and costs of implementing Criminal Behaviour Order (Sensitivity analysis)

Year	Best estimate		Lower bound		Upper bound	
	Volume	Cost (£m)	Volume	Cost (£m)	Volume	Cost (£m)
0	0	£0.0	0	-£0.7	200	£1.6
1	0	£0.0	0	-£0.7	200	£1.9
2	0	£0.0	0	-£0.7	300	£2.2
3	0	£0.0	0	-£0.7	300	£2.5
4	0	£0.0	0	-£0.7	300	£2.8
5	0	£0.0	0	-£0.7	400	£3.2
6	0	£0.0	0	-£0.7	500	£3.6
7	0	£0.0	0	-£0.7	500	£3.9
8	0	£0.0	0	-£0.7	600	£4.3

²⁰ It is not possible to determine whether or not this will as there is no data on the proportion of CRASBOs or DBOs on conviction currently issued by the courts as opposed to applied for by the prosecution. If the proportion of court issued CRASBOs and DBOs is high, it is likely that Criminal Behaviour Order volumes will be lower than CRASBO volumes.

²¹ Taken from Ministry of Justice statistics.

9	0	£0.0	0	-£0.7	600	£4.8
Average annual		£0.0		-£0.7		£3.1
Present value		£0.0		-£5.6		£25.7

75) The savings generated in the **lower bound** scenario are as a result of a lower breach rate and so fewer breach hearings in comparison to the baseline. Savings will be made by all agencies involved in breach hearings; anti-social behaviour practitioners (generally local authority), police, HMCTS, CPS, LSC, HM Prisons, as well as National Offender Management Service (NOMS). As a result of fewer breach hearings, it is estimated that 11 fewer prison places would be needed each year. The costs generated in the **upper bound** scenario are as a result of more orders issued in Option 2 as compared to the baseline, do nothing Option1. As a result there will also be more breach hearings from more orders issued as well as the higher breach rate estimated. Costs²² will fall to all agencies involved in the issue and breach hearing process; anti-social behaviour practitioners (generally local authority), police, HMCTS, CPS, LSC, HM Prisons, as well as NOMS. It is estimated that approximately 60 additional prison places would be necessary each year. Average annual costs by agency are presented in Table E.3 below.

Table E.3: Estimated additional average annual costs of implementing Criminal Behaviour Order, by agency			
	Best estimate	Lower bound	Upper bound
Police	£0.0	£0.0	£0.1
Practitioners	£0.0	£0.0	£0.2
HMCTS	£0.0	£0.0	£0.2
CPS	£0.0	-£0.1	£0.3
LSC	£0.0	-£0.1	£0.4
HM Prisons	£0.0	-£0.4	£1.6
NOMS	£0.0	-£0.1	£0.3
Total	£0.0	-£0.6	£3.0

76) These lower and upper bound scenarios represent the estimated extremes of what could happen if the Criminal Behaviour Order is implemented. It is likely that, in reality, what will happen will fall in between these two extremes and our best estimate is that Criminal Behaviour Order volumes will closely follow the decline expected in ASBO on conviction volumes, leading to no additional cost as a result of implementing Option 2.

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

78) There is a risk associated with the introduction of Police and Crime Commissioners (PCCs), who may decide to guide practitioners towards the new powers. However, this risk is related to the introduction of PCCs, and not the new powers. Any changes are likely to affect the do nothing option as much as Option 2 and as such are unlikely to lead to any additional costs (or benefits) for this policy.

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

²² As previously stated, any costs identified will be opportunity rather than financial costs.

Introduce a Crime Prevention Injunction

Current orders (the 'do nothing' option)

Order	Standard of proof to get order	Process to get the order	Age range	Minimum/ Maximum term	Breach	Standard of proof on breach	Max sentence
ASBO on application	Beyond reasonable doubt (since 2002 'McCann' ruling)	A civil order applied for in the Magistrates' Court, or County Court (if attached to other proceedings). The majority are applied for by local authorities, but they can also be applied for by the police, registered social landlords, Transport for London, the Environment Agency and Housing Action Trusts	10 and over	Minimum term of 2 years, but no maximum term (for both over and under 18s)	Criminal offence heard in Crown Court, Magistrates' Court or Youth Court. Prosecuted by CPS.	Beyond reasonable doubt	(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
Interim ASBO on application	That it is just to grant the interim ASBO	As above	10 and over	As with full ASBO, but in practice, these orders only last until the court can schedule a full ASBO hearing	Criminal offence heard in Crown Court, Magistrates' Court or Youth Court. Prosecuted by CPS.	Beyond reasonable doubt	(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
Individual Support Order	That the ISO is desirable in the interests of preventing any repetition of the ASB leading to the ASBO	A civil order applied for in the Magistrates' Court alongside an ASBO	Under 18s	No minimum, 6 months maximum	Criminal offence heard in the Youth Court. Prosecuted by CPS.	Beyond reasonable doubt	£1000 if defendant is 14-17, £250 if under 15

Intervention Order	That the IO is desirable in the interests of preventing any repetition of the ASB leading to the ASBO	A civil order applied for in the Magistrates' Court alongside an ASBO	18 and over	No minimum, 6 months maximum	Criminal offence heard in the Magistrates' Court. Prosecuted by CPS.	Beyond reasonable doubt	a fine not exceeding level 4 on the standard scale.
ASB Injunction	On the balance of probabilities	A civil order applied for in the County Court. This injunction is only available to deal with anti-social behaviour by tenants, and can be applied for by registered providers of social housing, housing action trusts and by local authorities	Over 18s	No statutory minimum or maximum	Contempt of court proceedings heard in the County Court. Proceedings taken by applicant.	Beyond reasonable doubt	No criminal offence. Contempt of court – unlimited fine and up to 2 years in prison
Interim ASB Injunction	That it is just to make an interim ASBI	As above	Over 18s	No statutory minimum or maximum	Contempt of court proceedings heard in the County Court. Proceedings taken by applicant	Beyond reasonable doubt	No criminal offence. Contempt of court – unlimited fine and up to 2 years in prison
Drinking Banning Order on application	Civil order but McCann ruling may apply ¹	A civil order applied for in the Magistrates' Court or the County Court (if attached to other proceedings) and can be applied for by the police or local authorities.	Over 16s	2 months minimum, 2 years maximum	Criminal offence heard in the Magistrates Court or Youth Court. Prosecuted by CPS	Beyond reasonable doubt	a fine not exceeding level 4 on the standard scale.

¹ According to Home Office guidance on DBOs, p25: <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-drinking-banning-order?view=Binary>

Introduce a Crime Prevention Injunction

Order	Standard of proof to get order	Process to get the order	Age range	Minimum/ Maximum term	Breach	Standard of proof on breach	Max sentence
Crime Prevention Injunction	On the balance of probabilities	A civil order in the County Court or Youth Court. Applied for by local authorities, police, registered social landlords, Transport for London, the Environment Agency, NHS Protect and Housing Action Trusts	10 and over	No statutory minimum or maximum	Contempt of Court proceedings heard in the County Court or Youth Court. Proceedings taken by applicant.	Beyond reasonable doubt	<p>No criminal offence on breach</p> <p>Contempt of court – unlimited fine and up to 2 years in prison (for over 18s)</p> <p>For under 18s: Supervision requirement, activity requirement, detention (up to 3 months – only for 14-17 year olds)</p>
Interim Crime Prevention Injunction	That it is just to make an interim CPI	A civil order in the County Court or Youth Court. Applicants as above.	10 and over	No statutory minimum or maximum (but likely to be until the full hearing of the CPI)	Contempt of Court proceedings heard in the County Court or Youth Court. Proceedings taken by applicant.	Beyond reasonable doubt	<p>No criminal offence on breach</p> <p>Contempt of court – unlimited fine and up to 2 years in prison (for over 18s)</p> <p>For under 18s: Supervision requirement, activity requirement, and detention up to 3 months – but not for persons aged under 14.</p>

Introduce a Crime Prevention Injunction

- 80) This section sets out, in broad terms, what the likely costs to the CJS might be of this change. Given the inherent uncertainty associated with future predictions, the final presentation is a range of likely costs and the figures presented do not necessarily represent wholly additional financial costs to the criminal justice system.
- 81) The main changes between the 'do nothing' option and introducing the Crime Prevention Injunction are that:
- i) breach of the new orders would not be a criminal offence;
 - ii) court mandated positive requirements could be included in the same order as prohibitions¹;
 - iii) the system would be simplified as there would be fewer different types of orders available;
 - iv) the minimum terms for the new orders would be different compared with the ASBO, as there would be no statutory minimum;
 - v) the maximum terms would be different compared with the Drinking Banning Order, the Individual Support Order and the Intervention Order, as there would be no statutory maximum, though we will continue to consider whether there should be a statutory maximum term as part of the process of pre-legislative scrutiny; and
 - vi) the test to get the new order would be a lower test compared with the current stand alone ASBO test, though would be the same as the current ASBI test ('nuisance and annoyance' rather than 'harassment, alarm or distress').

Number of additional orders

- 82) The introduction of the Crime Prevention Injunction is likely to reduce the duplication within the current orders issued as orders will be easier to obtain meaning it will not be necessary to apply for both the Interim ASBO and the ASBO on application. Practitioner evidence suggests there is duplication within the current orders available, with many applying for both the Interim ASBO and the stand-alone ASBO as a result of the lengthy processes to obtain an order and because of the higher burden of proof required for the ASBO since 2002. As the Crime Prevention Injunction is estimated to be less bureaucratic and easier to apply for, it is assumed this duplication will cease and practitioners will need only to apply for one order. It is not possible to predict with certainty how this will affect the volume of Crime Prevention Injunctions compared to the baseline, as it is not known how many Interim ASBOs go on to be issued as full ASBOs or how many practitioners use Interim ASBOs because of the cumbersome process to obtain a full, ASBO on application, so a number of scenarios have been estimated. In both cases, the volume of ASBIs will be considered as well.
- 83) Firstly, it is assumed the duplication lies with Interim ASBO applications, so that the introduction of the Crime Prevention Injunction will reduce applications for the Interim ASBO to zero; the only volumes considered are those of the ASBO on application, and ASBI. This will be referred to as the lower bound. In the second case, applications for the ASBO on application are assumed to reduce to zero so that only applications for the Interim ASBO and ASBI are considered. This will be referred to as the upper bound. In either case, it is estimated that those applications which would have been for Individual Support Orders or Intervention Orders will no longer need to be made due to the inclusion of positive requirements in the injunction. This will not have a significant impact on volumes or costs, as these orders are used infrequently at present, and because they are heard at the same time as an ASBO application (as they cannot be applied for separately from an ASBO). In order to ensure a fair comparison, ISOs and IOs volumes have not been included in the baseline totals as it is not possible to apply for these orders separately. However, the practitioner cost of implementing these orders, where known, has been included in the baseline calculations². The best estimate is calculated as the mid-point of these two scenarios.
- 84) The interim Crime Prevention Injunction has not been estimated separately as we do not have separate data on the interim ASBI as opposed to full ASBIs to base an estimate on. Due to lack of data, the baseline does not contain an estimate for interim ASBIs. It is assumed that the Interim Crime Prevention Injunction will be largely similar to the Interim ASBI due to the similar process

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

² This does not include any court time as no additional court time is assumed to be required to issue these orders.

involved in the application for both full orders. It is not expected that the interim Crime Prevention Injunction will follow the trend in interim ASBOs with only some interim ASBOs becoming full, stand-alone ASBOs. It is assumed that it will follow the trend in interim ASBIs as an interim measure on the way to obtaining a full ASBI and so have minimal costs attached, unlike the interim ASBO.

85) The estimated volume of Crime Prevention Injunctions issued is assumed to follow the orders they replace with increase of 5 per cent in comparison with the baseline³. It is not thought that there will be a large widening of availability due to the lowering of the threshold of proof, as this is only lower than the ASBO and not the ASBI which forms the majority of estimated applications for the Crime Prevention Injunction. There is also the limiting factor of practitioner resource and that these injunctions would not be appropriate for the majority of individuals engaged in 'transitional' anti-social behaviour. However, there is likely to be a small increase in volumes due to injunctions being easier to use than ASBOs, and so both the upper and lower bounds show an increase in volumes. A potential increase in volumes has been taken into account in allowing a 5 per cent increase in volumes above the baseline. Expected additional volumes of orders issued can be seen in Table E.4. For injunctions, although evidence gathering is quicker and easier thus saving money upfront, agencies must pay to prosecute their own breaches rather than relying on passing this cost onto the CPS and so they are unlikely to increase dramatically the number that they apply for. Approximately 30 per cent of Crime Prevention Injunction applications are estimated to be made for those under the age of 18, based on the current volume of those under 18 receiving ASBOs. These applications will be heard in the Youth Court, which has been factored into the separate unit costs for those aged under 18.

Transition costs

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

87) For some practitioners (e.g. local authorities, police, the Environment Agency and Transport for London) who are used to applying for ASBOs on application in the magistrates court, there may be a transition period as they adjust to County Court and Youth Court procedures. However, social landlords will be familiar with ASBI hearings in the County Court, and the lower evidence standard means that procedures should be simpler than those for the ASBO on application hearings. As a result, it is assumed that any transition costs would be minimal. Some training may also be required for Youth Court judges as this court cannot currently hear civil cases. However, many judges and youth court magistrates already deal with ASBO on application cases involving under 18s in the special sittings of Magistrates' Courts so would be familiar with civil orders.

Unit costs

88) The unit cost for the Crime Prevention Injunction⁴ is assumed to be the same as for the ASBI due to the similar nature of the order (e.g. both are civil orders in the County Court). 3 hours of police time and 9 hours of practitioner time are assumed to be required⁵ to apply for a Crime Prevention Injunction. 30 minutes⁶ of court time in a County Court, or Youth Court for those aged under 18, is assumed necessary⁶ to issue a Crime Prevention Injunction but no CPS costs are incurred. Legal aid is available with 28 per cent of the population assumed to be eligible⁷ in the County Court. However, this percentage will be an underestimate as people living in less affluent urban areas are more likely to be repeat victims of anti-social behaviour, and this is particularly true for those living in

³ So for the upper bound the volume CPIs issued is estimated to be the volume of ASBIs and Interim ASBOs issued, with an expected 5 per cent increase above the baseline. For the lower bound, it is estimated to be the volume of ASBIs and ASBOs on application issued each year with an expected 5 per cent increase above the baseline.

⁴ Costs fall to the police, ASB practitioners (including social landlords), HMCTS and LSC.

⁵ Based on anecdotal evidence as data were not available.

⁶ Based on anecdotal evidence as data were not available. This may prove to be an underestimate for contested hearings, however, the proportion of contested ASBI hearings is not known.

⁷ Proportion based on the 2008 Family Resources Survey – used on MoJ advice.

social housing, as opposed to those living in private rented sector and home owners.⁸ Individuals in less affluent areas or in social housing are more likely to be eligible for legal aid than the general population. It has not been possible to quantify this so the assumption of 28 per cent eligibility is used for those over the age of 18. For those under the age of 18 the assumption of 100 per cent eligibility has been used. The unit costs of issuing a Crime Prevention Injunction⁹ are approximately £750 for someone aged over 18 and £900 for someone aged under 18.

89) The additional estimated volumes of Crime Prevention Injunctions issued in comparison to the baseline, do nothing option is considered in table E.4 in the quantified benefits section, as the cost of implementing these orders is actually a saving in comparison to the baseline, 'do nothing' option. It has not been possible to quantify the costs to the applicant of the positive requirement elements of a Crime Prevention Injunction, but any non-voluntary positive requirements will add to the unit cost. This is likely to lead to the ASBI unit cost being an underestimate of cost of a Crime Prevention Injunction which includes positive requirements. The types of positive requirements which could be imposed through a Crime Prevention Injunction would be the same as for a Criminal Behaviour Order. These are outlined above.

Breach rate

90) The breach rate is estimated to be 40 per cent¹⁰ each year. This is the midpoint of the ASBO on application and ASBI breach rates. Sensitivity analysis has been carried out on this assumption and included in the upper and lower bound estimates in the table below. It is assumed that the breach rate could be up to 10 percentage points higher or lower than the best estimate as a result of the inclusion of positive requirements. Breach proceedings are assumed to be mostly similar to the anti-social behaviour injunction process described in the table above. As such, the unit cost of a breach hearing is estimated to be approximately £600 for someone aged over 18 and £900 for someone aged under 18¹¹.

91) The volume of breach hearings and their associated costs are set out in table E.5 in the quantified benefits section below as the costs of breaching Crime Prevention Injunctions actually represent a saving in comparison to the baseline. It has not been possible to model breach of either interim ASBIs (for the baseline) or interim Crime Prevention Injunctions (for Option 2) as these are temporary orders given for a short period of time if court time is not available to hear the full case. The table also takes into account the sensitivity analysis considered in the previous paragraph. The breach rate for the Crime Prevention Injunction has been estimated as the mid-point between the ASBO and the ASBI breach rates. This is assumed to be the best estimate as there was no evidence supporting a better proxy. This is broadly consistent with the estimated Gangs Injunction breach rate, which is an order procedurally similar to the Crime Prevention Injunction, although it is likely to be lower than the Gang Injunction breach rate as the aims of the orders are different, and the individuals subject to gang injunctions are likely to have more entrenched behaviour issues, including more violent behaviour.

92) The unit cost for breach is estimated to be the same as for the breach of an Anti-Social Behaviour Injunctions due to the similar nature of the breach and the similar court fees applicable. It is estimated to require 3 hours of police time and 7 hours of practitioner time¹² in preparation together with 1 hour of County Court in the event of an uncontested breach and 2.5 hours of court time for a contested breach. No CPS costs are incurred as this is a purely civil order. Legal aid is available as for the issue hearing of a Crime Prevention Injunction. The same costs are applicable to the Youth Court¹³. It has not been possible to quantify disposal costs for the Crime Prevention Injunction as

⁸ Taken from research conducted for HMIC by Cardiff University (building on BCS data): Re-thinking the policing of anti-social behaviour (Innes and Weston, 2010).

⁹ Including costs to police, practitioners, HMCTS, and LSC.

¹⁰ This is estimated as the midpoint of the ASBO and ASBI breach rates (from MoJ statistics, and social landlord evidence respectively). The annual breach rate for ASBOs is 71 per cent (calculated from Ministry of Justice statistics 2005-2011) and the breach rate for ASBIs is approximately 15 per cent. This is broadly consistent with the expected breach rate for the gang injunctions, though is likely to be lower as the aims of the orders are quite different, and those being given gang injunctions are likely to have more entrenched behaviour issues.

¹¹ Estimated to require 3 hours of police time and 6 hours of practitioner time, together with 1 hour of County Court time if the breach is uncontested and 2.5 hours if it is contested. Legal aid availability and eligibility is assumed to be as for issue of an ASBI (MoJ figures). For those aged under 18 the estimate for breach is £1,400 because of different legal aid eligibility assumptions.

¹² Based on police anecdotal evidence.

¹³ Although a different unit cost is used for Youth Court time as opposed to County Court time

data from the County Court on breach of anti-social behaviour Injunctions was not available so disposal costs for the orders in the baseline have not been considered at this point. Table E.5 below only compares costs of the breach hearings¹⁴ for the Crime Prevention Injunction as compared to the baseline.

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

Non-quantifiable costs

94) Where relevant authorities propose positive requirements to the court as part of a Crime Prevention Injunction, those may entail some additional costs which may partially offset the anticipated benefits of addressing the underlying causes of the individual's behaviour. This depends on the type of positive requirements applied for, and whether they are using existing service provision within e.g. the local authority. As with the Criminal Behaviour Order, it has not been possible to estimate those costs, or the impact that the inclusion of positive requirements will have on the breach rate and the costs associated with this.

95) We are not specifying in legislation the types of positive requirements which could be imposed through the order, other than that they must assist in the prevention of future anti-social behaviour. In relation to positive requirements, the key point in terms of impact is that before making an order which includes any positive requirements, the court must receive written or oral evidence from the person who would supervise and monitor the order. This will ensure that the requirement is available, appropriate and enforceable. In addition, we expect that the majority of positive requirements would typically be a service that is being provided in any case (for example, local authority funded community mediation), so the additional costs of providing the actual requirement should not be significant. The cost of providing the requirements could fall to a range of agencies e.g. local authorities, housing associations, probation but only if they agreed to it at a local level before the application was made.

96) The flexibility in the legislation means that the types of positive requirements which could be imposed would vary from low to medium to high cost depending on what was required in the situation and what was available locally. The following list gives examples of low, medium and high cost requirements as a guide:

- i) **Low cost requirements:** examples could include requiring someone to always have their dog muzzled when in public spaces; or requiring reparation and restorative approaches such as writing a letter of apology to the victim(s). These would have no additional costs other than monitoring costs by whoever proposed the requirement in the first place (usually either the local authority or the police).
- ii) **Medium cost requirements:** examples could include requiring someone to attend a mediation session run by existing mediation services¹⁵ or to participate in mentoring. These services would generally be paid for by either the local authority, or sometimes the registered provider of social housing (if the individual was a tenant), and could be provided by a voluntary sector provider. A mediation session provided by a charity would incur a cost to the local authority or registered provider of social housing. Another medium cost option could be an individual being required to attend parenting group sessions already being run by the local Youth Offending Service or Children's Services. Here the onus would be on the officer (usually police or local authority) obtaining the order being able to access (and pay for if required through local commissioning arrangements) a place on a group.
- iii) **Higher cost requirements:** These could include attending a multi-systemic therapy session organised by a local Youth Offending Team (again, paid for by the local authority), or

¹⁴ Including police, practitioner, HMCTS, CPS, and LSC costs.

¹⁵ For example, the social landlords mediation services run by some local authorities (e.g.

http://www.manchester.gov.uk/info/500216/disputes_conflicts_and_mediation/4313/mediation_services_for_registered_social_landlords/1)

attending alcohol or drug treatment or anger management. Although we cannot provide unit costs for all of these different types of requirement, the following provides some examples of different unit costs as a guide. The average cost per individual receiving alcohol treatment in the community is about £1,600.¹⁶ The net cost of structured drug treatment was estimated at £4,531 in the 2009 Home Office Drug Treatment Outcomes Research (DTORS) report.¹⁷ The standard unit cost for probation is £2,800¹⁸ and the standard unit cost for an Individual Support Order led on by the Youth Offending Team is £1,800¹⁹. Even these higher cost requirements may not require additional funding at a local level, as for example, combined funding from the Home Office and Department of Health for drug treatment services is allocated annually to all 149 Drug Action Team partnerships which means that all residents in that area can access a range of treatment services at no cost at point of delivery.

- 97) It has not been possible to quantify these costs due to the number of different variations in types of requirements, and the lack of any data to be used as a proxy to estimate the number of orders which may contain positive requirements (as the only existing civil orders containing both positive and negative requirements are gang injunctions, and these have not been in place long enough to provide sufficient data).
- 98) Due to a lack of data concerning the disposals for breach of ASBIs, it has not been possible to estimate the possible disposal outcomes of the Crime Prevention Injunction or to quantify their cost. It has also not been possible to estimate the impact on prison places. Anecdotal evidence gathered by the Social Landlords Crime and Nuisance Group suggests that the most likely outcome for breach of an ASBI is a suspended sentence or custodial sentence of approximately 3 months. Between 2000 and 2010 between 9 and 59 individuals were in prison for contempt of court at any one time, and this compares with Ministry of Justice ASBO data showing that, in total, 6,007 individuals were given a custodial sentence²⁰ for breach of an ASBO on application or ASBO on conviction over the same period. This could lead to a reduction in average sentences and committals to prison for those previously breaching ASBOs as there was a maximum penalty of 5 years imprisonment and an average sentence of over 5 months. For those orders issued to adults that would previously have been issued as ASBIs there is likely to be no change in the disposal outcomes for breach of the order as breach will continue to amount to a contempt of court. However, for those that would previously have been issued as ASBOs could see a reduction in severity of disposal outcomes as the maximum penalty for contempt of court is lower than for breach of an ASBO²¹. As a result there is a potential saving that could be made with shorter custodial sentences apportioned for breach as compared to the baseline.
- 99) As there are currently no powers to detain those under 18 for contempt of court, it has also not been possible to quantify the effect of the policy on disposals for under 18s. The alternative sanctions regime is based on the proposals in the gang injunctions and would include a possible supervision requirement, an activity requirement, or, as a very last resort for repeated breach, detention for 14-17 year olds. Given that this is a preventative injunction designed to stop behaviour at an early stage, questions were raised in the consultation as to whether it is proportionate to have a custodial penalty for breach at all. As a result, we are seeking views of individuals and organisations as to whether a custodial sentence should be available for breach of a Crime Prevention Injunction, in particular in relation to breach by a young person. Either way, it is expected there would be a reduction in the use of custody for breach of the injunction for under 18s compared with the ASBO for under 18s, as custody will only be available as an option for 14-17 year olds, whereas for the ASBO children as young as 12 have been given custodial sanctions on breach²². In addition, the maximum sentence for breach by a young person would be 3 months, as opposed to the ASBO maximum of 5 years.

¹⁶ "Unit Cost of Health and Social Care 2010"

¹⁷ http://www.dtors.org.uk/reports/DTORS_CostEffect_Summary.pdf

¹⁸ 2010/11 figures provided by Ministry of Justice

¹⁹ Estimated to require 35 hours of practitioner time to administer, based on practitioner advice. No additional police or court time is assumed necessary for issue as it is attached to an ASBO.

²⁰ On the occasion of the severest sentence received. Custodial sentences for breaching an ASBO may have been given concurrently with custodial sentences for other offences for which the person was found guilty.

²¹ Maximum penalty for contempt of court is 2 years imprisonment whereas for an ASBO it is 5 years imprisonment.

²² For example 222 12-14 year olds have received a custodial sentence for breach of ASBO from 2000 to 2010: Custodial sentences for breaching an ASBO may have been given concurrently with custodial sentences for other offences for which the person was found guilty. <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/asbo-stats-england-wales-2010/>

However, it has not been possible to quantify this as gang injunctions for 14-17 year olds only came into force in January 2012 so no data are yet available.

- 100) It has not been possible to fully take into account the impact the policy will have on volumes as the test used by the County Court is lower than that for the Magistrates' Court. A sensitivity analysis has been carried out the results discussed in the risks section.
- 101) Costs of variation hearings²³ and appeals have also not been possible to quantify, but again are not thought to represent any additional costs as are unlikely to change post implementation.
- 102) The cost of monitoring Crime Prevention Injunctions has not been estimated due to a lack of data available surrounding current monitoring of ASBOs on application. This is partly due to poor quality data collection at the local level²⁴, and also due to the fact that many ASBO prohibitions are monitored by the communities themselves (e.g. individual X is prohibited from going to Y Street, and those who live on Y Street are informed of this, and can call the police if individual X turns up). For these prohibitions, the only monitoring costs are the costs incurred by the applicant (usually either police or local authority) in publicising the order and communicating the terms to local communities. It is not expected that the Crime Prevention Injunction will require any additional resources for the monitoring of the prohibitions imposed through orders and as the minimum term of the order for young people is less than for the ASBO on conviction this may result in savings in terms of monitoring.
- 103) For those orders which included positive requirements, there may be an increase in the cost due to monitoring of those requirements in the new orders. It has not been possible to quantify these costs due to the number of different variations in types of requirements, and the lack of any data to be used as a proxy to estimate the number of orders which may contain positive requirements (as the only existing civil orders containing both positive and negative requirements are gang injunctions, and these have not been in place long enough to provide sufficient data).

Impacts by organisation

- 104) The following individuals/sectors are likely to be affected by the proposals:
 - i) **Police:** Feedback from the police is that they tend to use the ASBO on conviction more than the ASBO on application, so impacts on the police should be minimal as we expect the police to use Criminal Behaviour Orders more than Crime Prevention Injunctions. However, if the police did apply for a Crime Prevention Injunction then the main cost increase would be that they must pay to prosecute their own breaches rather than relying on passing this cost onto the CPS.
 - ii) **Local authorities:** The costs for local authorities would be in paying for any positive requirements or in increased monitoring costs as a result of positive requirements where they choose to do so.
 - iii) **Registered Providers of social housing:** There is unlikely to be an impact on social landlords as they currently use ASBIs, which are similar to the Crime Prevention Injunction, and will continue to do so. The only cost for social landlords would be in paying for any positive requirements or in increased monitoring costs as a result of positive requirements.
 - iv) **Youth Offending Teams (YOTs):** The only cost for YOTs would be in responding to a consultation request when another agency was applying for a Crime Prevention Injunction. However, this would be light touch and would not require them to produce any specific reports or documentation unless they thought it would be useful in supporting the application.
 - v) **Her Majesty's Courts and Tribunals Service (HMCTS):** There would be an increase in the number of orders in the County Court and the Youth Court and a decrease in the number of orders in the Magistrates Court in comparison to the baseline. Due to the comparative costs of each court this will result in an increase in court costs, however, this will be partially offset by fee income.
 - vi) **Crown Prosecution Service (CPS):** These changes are likely to decrease the workload for the CPS as breach of a Crime Prevention Injunction is not a criminal offence so they would

²³ That is hearings to vary the terms of the injunction

²⁴ This issue around data collection was flagged in "Describing and assessing interventions to address anti-social behaviour" HO Research Report 51

not be involved at any stage of the Crime Prevention Injunction. This will represent a saving for the CPS on any injunction that would previously have been issued as an ASBO on application and so have incurred CPS costs in prosecuting any breach of that order.

- vii) **National Offender Management Service (NOMS):** The addition of positive requirements may increase work for probation, but only if local funding were provided (as the court cannot order requirements which are not available and funded locally).
- viii) **Legal Services Commission (LSC):** Legal aid costs are not expected to increase as we estimate volume of orders issued will be lower than the baseline. Savings will also be made as eligibility for legal aid is lower in the County Court than the Magistrates Court for anti-social behaviour powers.
- ix) **Prison Service:** It is likely that there would be a reduction in prison places as the stand-alone ASBO has a maximum sentence of 5 years, compared with a maximum sentence of 2 years for contempt of court for adults, or a maximum sentence of 3 months for 14-17 year olds. However, it has not been possible to quantify this due a lack of data availability on current sentencing practices for breach of an ASBI.

Benefits

105) The benefits quantified following the introduction of the Crime Prevention Injunction are the savings identified in the costs section and can be seen in tables E.4 and E.5. This captures the reduction of duplication between the ASBO on application and the interim ASBO as well as the savings from the greater role for the County Court. Negative volumes indicate fewer orders being issued in comparison to the baseline and negative benefits indicate additional costs. The assumptions for this modelling can be found earlier in this section. The best estimate is assumed to be the midpoint of the lower and upper bound scenarios.

106) Table E.4 demonstrates the savings (benefits) available as a result of issuing Crime Prevention Injunctions while E.5 focuses on the savings resulting from lower breach costs.

Year	Volumes issued (Best estimate)	Benefits (£m)	Volumes issued (Lower bound)	Benefits (£m)	Volumes issued (Upper bound)	Benefits (£m)
0	-1000	£0.7	-1500	£1.2	-400	£0.3
1	-800	£0.6	-1400	£1.0	-200	£0.1
2	-800	£0.5	-1400	£1.0	-100	£0.0
3	-800	£0.4	-1400	£0.9	-100	-£0.1
4	-700	£0.4	-1400	£0.9	0	-£0.2
5	-700	£0.3	-1400	£0.9	0	-£0.2
6	-700	£0.3	-1400	£0.9	0	-£0.2
7	-700	£0.3	-1400	£0.9	100	-£0.3
8	-700	£0.3	-1400	£0.9	100	-£0.3
9	-700	£0.3	-1400	£0.8	100	-£0.3
Annual average	-800	£0.4	-1400	£0.9	100	-£0.1
Present value		£3.7		£8.1		-£0.8

Year	Volumes breached (Best estimate)	Benefits (£m)	Volumes breached (Lower bound)	Benefits (£m)	Volumes breached (Upper bound)	Benefits (£m)
0	300	£1.0	-300	£1.4	800	£0.6
1	400	£0.8	-200	£1.3	1000	£0.4
2	600	£0.7	-100	£1.2	1200	£0.3
3	700	£0.6	0	£1.1	1400	£0.1

²⁵ Those issued over and above those considered in the baseline. Where there are negative numbers represents fewer orders being issued than under the 'do nothing' option.

²⁶ Negative volumes and benefits represent additional costs rather than additional benefits.

4	900	£0.5	100	£1.0	1700	-£0.1
5	1000	£0.4	100	£1.0	1800	-£0.1
6	1100	£0.4	200	£0.9	1900	-£0.2
7	1100	£0.3	200	£0.9	2000	-£0.3
8	1200	£0.3	300	£0.9	2100	-£0.4
9	1300	£0.2	300	£0.8	2200	-£0.4
Annual average	900	£0.5	100	£1.0	1600	£0.0
Present value		£4.7		£9.1		£0.2

107) Tables E.4 and E.5 show that, under the best estimate scenario, there is an average net benefit of £0.9 million each year as a result of implementing the Crime Prevention Injunction. This reflects savings as a result of a greater role for the County Court under Option 2, with ASBOs on application becoming County Court injunctions. Under the lower bound scenario, where duplication between current orders is assumed to be greater, net benefits of implementing the Crime Prevention Injunction are greater at an average of £1.9 million each year. Under the upper bound scenario, where assumed duplication is lower, savings are close to zero.

108) The risks and sensitivity analysis section below presents estimates of the number of additional orders that would have to be issued and breached for the savings presented in Tables E.4 and E.5 to be reduced to zero. Table E.6 presents the annual average costs per agency of introducing the Crime Prevention Injunction.

	Best estimate (£m)	Lower bound (£m)	Upper bound (£m)
Police	£0.0	-£0.2	£0.2
Practitioners	£0.3	-£0.1	£0.8
HMCTS	£0.2	£0.1	£0.3
CPS	-£0.5	-£0.5	-£0.5
LSC	-£1.0	-£1.1	-£0.8
Total	-£1.0	-£1.8	-£0.1

Non-quantifiable benefits

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

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

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

Risks and sensitivity analysis

- 112) It is possible that the lower threshold of evidence for the Crime Prevention Injunction than for the ASBO on application and Interim ASBO could lead to an increase in use of the Crime Prevention Injunction in comparison to the do nothing option. While the best estimates are presented in Table E.4 and E.5 above, a sensitivity analysis was conducted to establish how many orders would have to be issued, above those estimated, in order for the savings estimated to be reduced to zero. This analysis looked at the cost of issuing additional Crime Prevention Injunctions as well as any breaches associated with those additional injunctions issued²⁷. The analysis suggests that, in the best estimate scenario, an additional 750 orders would need to be issued and the estimated proportion breached²⁸ for the savings as a result of implementing the Crime Prevention Injunction to be reduced to zero giving a substantial margin for error. For the lower bound, this figure would be 1,900 additional orders issued and breached for the estimated savings to be reduced to zero. Due to the lack of data availability cited previously in this section, these figures are liable to overestimate the true number of additional orders needed to be issued in order to reduce estimated savings to zero. This is because it has not been possible to quantify the costs relating to the disposal outcomes of the Crime Prevention Injunction. Despite this, there is still a large margin for error.
- 113) Feedback in the consultation raised risks that the positive requirements may impose additional costs, however these will be mitigated by ensuring that the only positive requirements that can be imposed are those suggested by the relevant authority (on the basis of what it deems affordable and necessary to address the behaviour in questions). This may risk positive requirements not being used very often, particularly while local authority budgets remain reduced as part of the deficit reduction programme. However, there are funding streams that could be accessed to pay for positive requirements if deemed appropriate locally, for example, budgets which Police and Crime Commissioners (PCCs) may hold, and money available for dealing with troubled families.
- 114) The midpoint of the ASBO on application and ASBI breach rates may prove not to be the best proxy for the Crime Prevention Injunction breach rate. The inclusion of positive requirements together with the expansion of the applicants to organisations that cannot threaten housing related sanctions on breach could mean that breach rates experienced are higher than expected. Similar sensitivity analysis was conducted on the Crime Prevention Injunction breach rate as was completed on the Criminal Behaviour Order breach rate with the lower bound estimated using a breach rate 10 percentage points lower than our best estimate, and the upper bound estimated using a breach rate 10 percentage points higher. The results were presented in Table E.4 and E.5 above. There is also a risk that the cost of prosecuting their own breaches will cause problems for applicant authorities used to using ASBOs on application at present²⁹. This risk will be mitigated by the fact that the order will be cheaper and easier to get initially and could also make breach proceedings more efficient, as the CPS would not need to be brought up to speed on an order applied for by a different agency.
- 115) Savings generated in these scenarios are as a result of fewer orders issued in comparison to the baseline, do nothing option. There are also some savings generated because Crime Prevention Injunctions are less costly to issue or on breach than either ASBOs or Interim ASBOs. These savings could be reduced, particularly for the CPS, if local authorities choose to prioritise use of the Criminal Behaviour Order over the Crime Prevention Injunction. It has not been possible to predict how local authorities will choose to use these new powers so costs and benefits have been assessed based on current usage of the ASBO on conviction, ASBO on application, and ASBI.
- 116) There is a risk that the new Crime Prevention Injunction is used more by practitioners than the powers it is set to replace. However, we believe the likelihood of this to be low. There is an associated risk associated with the introduction of Police and Crime Commissioners (PCCs), who may decide to guide practitioners towards the new powers. However, this risk is related to the introduction of PCCs, and not the new powers. Any changes are likely to affect the do nothing option as much as Option 2 and as such are unlikely to lead to any additional costs (or benefits) for this policy.

²⁷ Calculated by applying the breach assumptions stated earlier in this appraisal.

²⁸ For the upper and lower bounds respectively.

²⁹ As an ASBO breach is prosecuted by the CPS, whereas ASBI breaches are prosecuted by the applicant as it is not a criminal offence.

117) The lower burden of proof of the Crime Prevention Injunction as compared to the ASBO on application could lead to an increase in the number of Injunctions applied for. This could lead to increased costs for ASB practitioners, HMCTS, and LSC. There is no evidence to suggest whether local authorities are currently unable to obtain ASBOs on application because the burden of proof is higher. As the sensitivity analysis above suggests, 750 additional orders would need to be issued before savings resulting from implementation of the Crime Prevention Injunction would be reduced to zero.

Proposal C: Introduce a Dispersal Power

Current police powers (the 'do nothing' option)

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

Introduce a Dispersal Power

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

¹ Defined as 'harassment, alarm or distress'

Introduce a Dispersal Power

- 118) The main changes between the 'do nothing' option and Option 2, for group C, are that:
- i) There would be no requirement to pre-designate an area in advance before the power could be used (unlike the current dispersal order under section 30 of the Anti-Social Behaviour Act 2003);
 - ii) There would be no requirement for alcohol to be present (unlike the current 'direction to leave' under section 27 of the Violent Crime Reduction Act 2006);
 - iii) The presence of a group would not be part of the test for dispersal, instead, the decision as to whether to disperse an individual would rely on their behaviour and its impact on others; and
 - iv) The new directions power would include a power to confiscate any item which is being used to cause anti-social behaviour (e.g. alcohol). This is in addition to existing powers to seize items being used to commit a criminal offence.

Costs

- 119) Breach of a direction will be a criminal offence, as will failure to hand over confiscated items. The unit cost of the Dispersal Power is approximately £10, requiring 15 minutes of police officer time to ask a person over the age of 10 to leave a specific area.¹ It does not require any interaction with the Criminal Justice System except for on breach of the power.
- 120) It is not possible to estimate the volume of the new Dispersal Powers as no volumes are available for the current use of the Directions to Leave Power, or volumes of people moved on from a dispersal zone as this data is not collected nationally. It is estimated that there will be a significant increase in the use of the Dispersal Powers after implementation due to the simplification and the removal of the need to designate a dispersal zone, and this was supported by the responses received on this issue in the consultation. However, this is likely to be largely offset by the savings achieved by removing the need to designate first a zone in which the Dispersal Power can be used. Also, as the Dispersal Power is essentially preventative, moving people on before they commit more serious anti-social behaviour or crime, greater use of the power would be offset by savings against the police and others having to use other measures once problems in particular areas had escalated.
- 121) Breach of the Dispersal Power is a criminal offence. The breach rate of the Dispersal Power is not known and there is no useful proxy as breach rates for both current dispersal powers are also unknown.

Impacts by organisation

- 122) The following individuals/sectors are likely to be affected by the proposals:
- i) **Police:** These changes would reduce costs on the police as there would be no requirement to pre-designate an area in advance.
 - ii) **Local authorities:** Costs would be reduced for local authorities as they do not have to sign off any pre-designation of areas.
 - iii) **Registered Providers of social housing:** There would be no change in comparison to the baseline.
 - iv) **National Offender Management Service (NOMS):** There would be no change in comparison to the baseline as the maximum sentence for breach of the new order would be a 3 month custodial sentence (as is currently the case) so probation would not be involved in breaches (either in the 'do nothing option' or 'Option 2').
 - v) **Her Majesty's Courts and Tribunals Service (HMCTS), Youth Offending Teams (YOTs), Legal Services Commission and the Crown Prosecution Service (CPS):** The only potential cost is if an increase in volumes of directions given led to an increase in breaches or appeals. However, as neither breach rates nor appeals rates for the current dispersal powers are known, it has not been possible to quantify this cost.

¹ Unit cost used is the cost of a police officer's time. This is based on ASHE (Annual Survey of Hours and Earnings) and CIPFA (Chartered Institute of Public Finances and Accounts) data from 2008 and includes on costs. Costs have been updated to account for inflation using HM Treasury GDP deflator series but they underlying data have not been updated. Costs presented are in 2010/11 prices. The cost of one hour of a police officer's time (ranked sergeant or below) is approximately £40.

Non-quantifiable benefits

- 123) There are considerable savings to be made from the removal of the need to designate a dispersal zone. There are savings of approximately £1,100² to be made on each Dispersal Zone that under the proposals would not have to be designated. However, as the current volume of Dispersal Zones designated is not known, as it is not collected centrally, it has not been possible to quantify the total savings falling to the police and local authorities.
- 124) Another key benefit of removing the requirement to designate an area (a 'Dispersal Zone') in advance is that there is no longer the need to go through a process of gathering evidence of 'serious and persistent' anti-social behaviour and getting the agreement of the local authority. This would mean police officers and Police Community Support Officers (PCSOs) could quickly deal with emerging trouble spots before anti-social behaviour could get to the stage of being 'serious and persistent'.

Risks

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

Net benefits of implementing Option 2

- 126) The best estimate of the net benefits across all groups are presented in table E.7 below:

Year	Benefit(£m)
0	£1.8
1	£1.4
2	£1.2
3	£1.0
4	£0.8
5	£0.8
6	£0.7
7	£0.6
8	£0.5
9	-£0.4
Average annual	£0.9
Present value	£8.6

- 127) The best estimate represented here is assuming no additional Criminal Behaviour Orders are issued in comparison to the baseline, while the volume of Crime Prevention Injunctions issued is the midpoint of two scenarios presented earlier in the appraisal section. Sensitivity analysis has been carried out and results can be found in Tables E.2-E.6. The estimated NPV of £8.6m reflects a balance between present value costs of £4.5m and benefits of £13.1m as a result of implementing Option 2. Costs fall to the police (£0.1m, present value) HMCTS (£1.6m, PV) and anti-social

² Including police and local authority time necessary for designating a dispersal zone. This is likely to be an underestimate due to the often lengthy and complicated processes required by some local authorities. For simplicity 21 hours of police time (including 1 hour of superintendent time) and 12 hours of local authority time are assumed to be required but this is thought to be the lower bound.

behaviour practitioners (£2.9m, PV) while savings fall to the CPS (£4.8m, PV) and the LSC (£8.4m, PV). Costs and benefits arising from Option 2 are as a result of introducing the Crime Prevention Injunction, with less duplication of orders and a greater role for the County Court leading to net benefits. No additional costs or benefits are estimated following the introduction of the Criminal Behaviour Order and it has not been possible to estimate any costs or benefits for the introduction of the Dispersal Power.

One-In-One-Out (OIOO)

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

F. Risks

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

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

- i) practitioner estimates of how long the application process for each order take may not be accurate;
- ii) despite the anecdotal evidence gathered suggesting there would be no appeals, additional orders and breach hearings could be appealed which would increase expected costs;
- iii) the increased burden on individuals subject to anti-social behaviour powers, through the inclusion of positive requirements, could lead to a higher breach rate than currently observed which could increase the expected costs;
- iv) the estimates of the reduction in volumes of orders issued (Crime Prevention Injunctions compared to ASBOs and Interim ASBOs) are overestimates. This would result in savings being reduced;
- v) current pressures on resources are not felt over the entire appraisal period which could lead to more orders being issued which would reduce the expected benefits of this policy. This is thought to be unlikely as it is not thought that this is currently the primary factor affecting the decision to apply for an order;
- vi) use of the new powers may increase following introduction as was seen after the introduction of the ASBO. While this could increase costs and reduce savings, it is thought to be unlikely as there will not be the same pressure to on local authorities to use the powers as there was following the introduction of the ASBO;
- vii) appeal court rulings which change the way that the legislation is used on the ground (as occurred through the McCann ruling on the ASBO in 2002). We are mitigating that risk by publishing the Bill in draft so that there is time for those who use the legislation at the moment to scrutinise our detailed proposals and ensure they are clear;
- viii) an increase in the volume of interim Criminal Behaviour Orders and Crime Prevention Injunctions compared to the baseline, and hence costs could be higher than currently estimated. The lack of data on the current volume of interim ASBOs on conviction and interim ASBIs means that it is not possible to quantify this risk;
- ix) the introduction of PCCs could mean that police forces are directed to increase their use of the orders proposed in this impact assessment. This is a risk associated with the introduction of PCCs, which would effect both the baseline and Option 2 in this Impact Assessment but could potentially lead to errors in the analysis presented in this modelling; and
- x) local authorities may change their use of the new powers, including preferring use of the CBO to the Crime Prevention Injunction. This could lead to inaccuracies in the costs and benefits presented, particularly in the case of savings attributed to the CPS. As it is not possible to predict how practitioners will choose to use the new tools, the estimates presented remain the best estimates of the impact of the implementation of Option 2.

G. Enforcement

131) Enforcement of this policy will be by the local authorities, police and courts, with oversight from the Home Office. It has not been possible to draw up detailed enforcement and implementation plans

at this stage, but guidance will be issued by the Home Office alongside implementation of the legislation.

H. Summary and Recommendations

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

Option	Costs	Benefits
2	£4.5m (PV over 10 years)	£13.1m (PV over 10 years)
	<p>Cost to</p> <p>1. Police (£0.1m, PV), HMCTS (£1.6m, PV) and anti-social behaviour practitioners (£2.9m). Uncertainties over the future volumes of the new orders which may or may not result in additional costs.</p> <p>2. It has not been possible to quantify the impact of the potential increase in positive requirements which could increase costs.</p>	<p>Benefits to</p> <p>1. Crown Prosecution Service (£4.8m, PV) and Legal Services Commission (£8.4m).</p> <p>2. It has not been possible to quantify the impact of the potential decrease in reoffending as a result of introducing positive requirements. This could increase benefits.</p>
Source: Home Office and Ministry of Justice data		

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

I. Implementation

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

135) As a result, we will be publishing a draft Bill in the autumn to allow for pre-legislative scrutiny by all those affected by the changes. Once Parliament has reported on the draft Bill, we will look to legislate as soon as parliamentary time allows. We would then propose to publish consolidated guidance on the new legislation to help assist with transitional costs and training, including advice on the application process to ensure reductions in bureaucracy are retained.

J. Monitoring and Evaluation

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

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

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

- 139) We will carry out post-legislative scrutiny 3-5 years after Royal Assent. We will also carry out a post-implementation review once the first set of statistics on use of the new orders have been published in order to consider whether a policy has achieved its objectives, to what extent success criteria have been met and whether there have been unintended consequences. To inform this we will seek the views of stakeholders including local authorities, the police, the Crown Prosecution Service, representatives from HMCTS and registered social landlords.
- 140) We will also monitor the impact of the proposals on all stakeholders on implementation to better understand any associated costs and benefits. In particular, we will monitor the impacts on the justice system. Where additional economic costs are identified, these will be covered through existing arrangements.

K. Feedback

- 141) We sought feedback on our proposals as part of an open and inclusive 14 week consultation which gave the public, practitioners, victims and interest groups the opportunity to have their say on our proposals. We have also continued informal consultation with practitioners to get feedback post-consultation as the policy developed. The consultation sought views and opinions on the reform proposals from a wide audience base.
- 142) As the legislation goes through Parliament, this will provide an opportunity for external organisations to further scrutinise and provide feedback on the proposals.

L. Specific Impact Tests

See Annex 1.

Annex 1. Specific Impact Tests

1 Statutory Equality Duties

- 1.1 Assessment of equality impact formed an integral part of the consultation process, including through specific equality impact questions, to identify pertinent concerns and issues. Guidance has been followed to ensure that a broad demographic of stakeholders were involved and consulted.
- 1.2 Age, disability, gender, gender identity, race, religion, sexual orientation, and socio-economic indicators are all potentially relevant factors in anti-social behaviour policy regarding both perpetrators and victims, and the Government's proposed reforms reflect this where appropriate. In particular, we have looked to address some long-standing concerns about the impact of anti-social behaviour on young people, and on people with mental health issues. We have also looked to address concerns about the impact of anti-social behaviour itself on people with disabilities.
- 1.3 Regarding perpetrators, Home Office research has identified two key types. Firstly, those whose anti-social behaviour is 'transitional', committed when the individual is adapting to a specific life change (e.g. adolescence, moving out of the family home, following a divorce etc). Typically, these perpetrators tend to respond to informal interventions, such as warnings.
- 1.4 The second, much smaller group, comprises those whose behaviour is persistent and 'entrenched', partly as a result of underlying factors such as substance abuse, mental health issues or a dysfunctional family background. These perpetrators' behaviour has a much higher impact in terms of both the harm caused to victims and the community, and they tend not to respond even to repeated formal interventions (e.g. repeatedly breaching an ASBO despite custodial sentences).
- 1.5 There is recognition among professionals that much of the most serious ASB is committed by a persistent minority of people with deep-rooted problems. However, take-up of the supportive orders originally intended to help people address those problems has been very low. For example, only 8 per cent of ASBOs issued to young people since 2004 had a supportive order attached. As a result, one common criticism of the current system is that, by imposing restrictions on the behaviour of that persistent minority without support to address underlying problems, those individuals are being 'set up to fail'. One of the key themes of our reforms, therefore, is to give practitioners the discretion to use informal measures for the majority, whilst ensuring that the powers to deal with the most serious anti-social behaviour can more effectively address the underlying causes.

Other equality issues – young people

- 1.6 The Crime Survey for England & Wales¹ (CSEW) has measured perceptions of ASB for a number of years using 'proxy' questions about how much of a problem a range of different types of behaviour are in the local area, including 'teenagers hanging around on the streets'.
- 1.7 These proxy indicators and the one about teenagers (which is clearly not, in itself, indicative of anti-social behaviour) do not provide detailed information of the actual experience of victims of ASB. To address this, we developed and piloted new questions which have been included in the CSEW from April 2011. These explore the public's actual experiences of ASB. The new questions will provide a richer source of contextual information on people's experiences of ASB, their interaction with police and local authorities and the impact the behaviour has had on their quality of life.
- 1.8 Results from the first 12 months of interviews will be available for publication later in 2012. Responsibility for the publication of Crime Statistics has now passed to the Office for National Statistics and they will give consideration to when and how such data will be published.

Other equality issues – mental health

- 1.9 There are strong links between anti-social or criminal behaviour and certain health needs. There is a high risk that once someone with those health needs comes into contact with the Youth or Criminal

¹ The survey was previously called the British Crime Survey, and the name was changed from 1 April 2012 to better reflect the coverage of the survey

Justice System, they will become locked into a recurring cycle of criminality and punishment. This cycle will have a significant impact on both their life chances, and on the people and community around them.

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

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

2 Economic Impacts

Competition Assessment

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

Small Firms Impact Test

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

3 Environmental Impacts

Greenhouse gas impacts

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

Wider Environmental Issues

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

4 Social Impacts

Health and Well-being

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

Human Rights

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

Justice

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

Rural Proofing

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

5 Sustainability

Sustainable Development

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