

**Title:**

Amendments to gang injunctions. In particular:

- to amend the rules defining what comprises a "gang"; and,
- to expand the range of activities a person must have engaged in, encouraged or assisted before a gang injunction can be imposed to include any involvement in support of the illegal drugs market.

**IA No:****Lead department or agency:**

Home Office

**Other departments or agencies:**

Ministry of Justice

**Impact Assessment (IA)**

**Date:** 14/05/2014

**Stage:** Final

**Source of intervention:** Domestic

**Type of measure:** Primary legislation

**Contact for enquiries:**

Tackling Crime Unit, Home Office

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**Summary: Intervention and Options**

**RPC Opinion:** Not Applicable

**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, Two-Out?	Measure qualifies as
-£9.9m	£0m	£0m	No	NA

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

Gang injunctions, introduced in the Policing and Crime Act 2009 (the "Act"), allow courts to place a range of prohibitions and requirements on the behaviour and activities of an individual in order to prevent gang-related violence. Evidence from local practitioners has identified two issues the Government needs to address in order to ensure gang injunctions can be used more effectively by the police and local authorities as a tool to tackle gang violence. These are:

- The meaning of gang-related violence is defined in section 34(5) of the Act but practitioners find this definition to be unduly restrictive and unreflective of the nature of how gangs operate in the UK.
- Practitioners do not currently have an injunction with which to address gang activity at the cross-over between urban street gangs and organised crime. They tell us gangs are usually engaged in a wider range of criminality than simply violence itself or which leads to violence, in particular the drug market.

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

- Ensure that legislation better reflects the true nature of how gangs operate in the UK, in order to:
  - assist practitioners in proving an individual's gang association, in particular those individuals not directly involved in violence but potentially influencing violent activity; and
  - better target those in the periphery of gangs, thus assisting practitioners to use the injunctions to prevent their becoming further involved in gang violence.
- Prevent gang members and associated individuals from engaging in activity to support the illegal drugs market and protect those in the early stages of involvement from being further drawn into such activity, which is particularly important for younger children.

The ultimate objective is to reduce levels of gang-related crime.

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

Option 1 – Do nothing and leave local practitioners with existing gang injunctions.

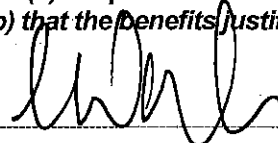
Option 2 – Amend legislation as per evidence from local practitioners to change the rules defining what comprises a "gang" and amend legislation to expand the range of activities before a gang injunction can be imposed to include any involvement in support of the illegal drugs market.

**Will the policy be reviewed? It will be reviewed. If applicable, set review date:** As part of normal post-legislative scrutiny

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 <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: N/A		Non-traded: N/A		

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

Signed by the responsible Minister:



Date:

2 June 2014

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Amendments to the rules defining what comprises a "gang"; and expanding the range of activities before a gang injunction can be imposed to include any involvement in support of the illegal drugs market.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV))		
			Low: -£3.6m	High: -£21.5m	Best Estimate: -£9.9m

COSTS	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0		£0.4million	£3.6 million
High	0		£2.5 million	£21.5 million
Best Estimate	0		£1.1 million	£9.9 million

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

- Costs to police and local authorities of making application for injunctions and legal services. This assumes 850 applications costing £2.1million over 10 years;
- Cost to Court Service of processing applications and court processes and hearings. This assumes 850 applications over 10 years. Court fees are set a full cost recovery so there is no net cost to the Court Service;
- Cost to the Legal Aid Agency of Legal Aid costs for respondents. 850 applications costing £4.9million over 10 years; and
- Costs to HM Prisons and NOMS of custodial sentences and suspended sentences. This affects 156 injunctions over 10 years costing £1.7 million
- Costs to the Youth Offending Service and the Youth Secure Estate of youth disposals. This affects 117 injunctions over 10 years costing £0.4 million.

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

- Costs to local authorities of commissioning interventions from voluntary and community sector suppliers of interventions. This was not monetised because the range of requirements is too varied.

BENEFITS	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			£0	£0
High			£1,500	£13,000
Best Estimate			£200	£1,700

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

- Fine income as result of increased number of breaches (£1,700 over 10 years)
- Break-even analysis suggests that 86 'violence against the person' offences would need to be prevented in order for the policy to deliver a positive return. This equates to approximately one per additional injunction issued.

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

- Reduction gang-related violence and illicit drug activity, and a reduction in social harm as communities should be better protected from individuals involved in gang-related violence and drug dealing;
- Increased public confidence in police and local authorities' ability to deal with gangs and violence; and,
- Prevention of more serious offending by individuals due to prohibitions and positive requirements.

### Key assumptions/sensitivities/risks

Discount rate (%)

3.5

- Estimates are just based on Ending Gang and Youth Violence (EGYV) priority areas, as there is no information available on the use of gang injunctions more widely across England and Wales. The number of gang injunctions issued might be higher if other non-EGYV areas are using them.
- Stakeholder feedback does not provide a robust estimate for the number of additional injunctions that will be issued. A range has been estimated based on current levels of injunctions. The actual number may differ from this.
- Application time is based on rough estimates from seven gang injunctions
- ASBO data is used as a proxy on a number of assumptions

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0		
			No	NA

# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Background

1. Gang injunctions for adults have been available since 31 January 2011, and gang injunctions for 14 to 17 year olds have been available since 9 January 2012. Following the passage of a Government amendment to the Crime and Courts Bill, the Government is currently putting in place the necessary procedures and training for Youth Courts to sit in a civil capacity to hear gang injunction applications for 14 to 17 year olds.
2. Gang injunctions were introduced with the purpose of:
  - Preventing acts of serious violence from occurring;
  - Breaking down gang culture and preventing younger gang members' behaviour from escalating; and,
  - Providing an opportunity for local agencies to engage with gang members and develop effective strategies for them to exit the gang.
3. Gang injunctions allow courts to place a range of prohibitions and positive requirements on the behaviour and activities of an individual.
4. The "first condition" which must be satisfied before a gang injunction can be imposed is that the respondent has engaged in, or assisted or encouraged, "gang-related violence". The "gang" element of this term is defined in section 34(5) of the Policing and Crime Act 2009. In this section "gang-related violence" means violence or a threat of violence which occurs in the course of, or is otherwise related to, the activities of a group that -
  - a) consists of at least 3 people,
  - b) uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group, and
  - c) is associated with a particular area."
5. Following consultation with practitioners, we have concluded that this definition is unduly restrictive and more importantly, does not reflect the true nature of how gangs operate in the United Kingdom. In particular:
  - Gangs do not always have a name, emblem or colour or other characteristic which enables its members to be identified as a group. Instead, a group of individuals may operate as a group and engage in criminality with some degree of organisation without these features;
  - Gangs are increasingly involved in criminality beyond their own areas and can be less associated with a particular area in a firm way. For example, gangs may exploit drugs markets some distance away. Moreover, gang structures change over time such that it is possible for gangs to disappear from certain locations and re-appear in other locations within the United Kingdom relatively quickly. This can be a result of gangs moving to other locations as a result of black market forces or being pushed out by rival gangs.
6. The particular activity which "gang-related violence" covers is, by virtue of section 34(5), "violence or a threat of violence". Whilst we are content with this definition, gangs tend to be engaged in a wider range of criminality than simply violence. In addition to violence, gangs are commonly involved in drug dealing, which in turn leads to gang violence.

### A.2 Groups Affected

7. The amendments to the definition of "gang" and expanding the activity in relation to which gang injunctions can be imposed to involvement in the drugs market will not affect any additional groups that are not already affected by the existing gang injunctions regime. There will be a

greater impact on the same agencies as the number of gang injunctions issued is expected to increase.

8. The groups that would be affected by the amendments proposed under Option 2 are as follows:

- **Practitioners**
  - Local Authorities
  - Police Forces
- **Others**
  - HM Courts and Tribunals Service (HMCTS)
  - National Offender Management Service (NOMS)
  - HM Prison Service
  - Youth Secure Estate
  - Youth Offending Services
  - Legal Aid Agency (LAA)

## **B. Rationale**

9. Following consultation with practitioners, we have concluded that the current definition of "gang" as defined in section 34(5) of the Policing and Crime Act 2009 is unduly restrictive and does not reflect the true nature of how gangs operate in the United Kingdom. We are proposing a new definition which is better suited to the reality of the gangs in the United Kingdom.

10. Gangs tend to be engaged in a wider range of criminality than simply violence. In addition to violence, street level gangs are involved in drug dealing. Expanding the range of activities to include any involvement in support of the illegal drugs market will allow gang injunctions to be used to prevent individuals from engaging in such activity and to protect people from being further drawn into this illegal activity, in particular children. This change will also enable areas to address the cross-over between urban street gangs and the lower levels of drug activity controlled at a higher level by organised crime groups.

## **C. Objectives**

11. The policy objectives are:

- Reduce gang-related violence
- Better target those in the periphery of gangs and prevent their becoming further involved in gang violence
- Address the increasing problem of the cross-over between urban street gangs and organised crime activity, in particular in relation to the drugs market.

## **D. Options**

12. Option 1 is to do nothing, which would leave local practitioners with existing gang injunctions. This will have no additional costs or benefits.

13. Option 2 intends to address concerns raised by practitioners about the effectiveness of existing gang injunctions. This should increase the number of gang injunctions that practitioners can issue, which would result in additional costs and benefits of gang injunctions.

14. The legislative amendments that would be introduced under this option would:

1. Change the definition of the "gang" element to which gang-related violence and activity applies. Something is gang-related if it occurs in the course of, or is otherwise related to, the activities of a group that:

- a) consists of at least 3 people, and

- b) has one or more characteristics that enable its members to be identified by others as a group.
2. Expand the range of activities to include any involvement in support of the illegal drugs market. This will allow gang injunctions to be used to prevent individuals from engaging in drug dealing and to protect people from being further drawn into such activity (which is particularly important for vulnerable people, including children).

## E. Appraisal (Costs and Benefits)

### GENERAL ASSUMPTIONS & DATA

#### Number of Injunctions

##### Baseline number of injunctions

15. Between January 2011 and January 2014 there have been 108 gang injunctions put in place<sup>1</sup> in 25 of the 33 Ending Gang and Youth Violence (EGYV) priority areas in England<sup>23</sup>. The EGYV areas are those identified as having a 'gang and serious youth violence problem' and so these areas account for a large proportion of the gang injunctions issued. However, gang injunctions are not restricted to just these areas and if non-EGYV areas are also using gang injunction the 108 that have been issued would represent a lower bound. Taking an average shows that approximately 36 gang injunctions have been issued per year in these 25 EGYV areas<sup>4</sup>.
16. Only two of the 108 gang injunctions have been issued to 14 - 17 year olds since gang injunctions for youths were introduced in January 2012.
17. Scaling up the number of gang injunctions to match the total number of the EGYV areas gives us *an estimated average number of gang injunctions issued per year in the base case of 1 for youths and 47 for adults.*

##### Additional adult injunctions

18. Feedback from practitioners indicated that one of the main reasons why gang injunctions are not being used at the levels envisaged in the 2009 impact assessment for adults and the 2012 impact assessment for youths<sup>5</sup> is that the definition is too restrictive, and does not reflect how gangs operate in the UK.
19. It is difficult to estimate exactly how many additional gang injunctions would be issued as a result of the amendments. The estimate for the number of gang injunctions granted in the 2009 impact assessment was based on consultation with police forces and the EGYV areas were consulted for this appraisal but could not provide an estimate of the likely take up. Therefore, a range has been estimated using the estimates in the previous impact assessments and the number of injunctions that were issued between 2011 and 2014, which may not be totally representative of the number of injunctions issued in the future.
20. Estimates provided in the impact assessment are just based on the 25 EGYV areas who returned data, as there is no information available on the use of gang injunctions more widely across England and Wales. It is not expected that there would be significantly more injunctions

<sup>1</sup> This figure differs from the previously published figure of 88 gang injunctions in the Home Office Review of the operation of injunctions to prevent gang-related violence (2014) as the number of gang injunctions reported by Bradford was revised from 2 to 22. The previously published figure of 88 referred to the number of injunctions applied for, whereas the 108 figure refers to the total number of individuals receiving an injunction.

<sup>2</sup> 8 of the 33 areas did not return data. The data collection was based on a voluntary data request about gang injunctions, so each area did not have to respond.

<sup>3</sup> These figures are based a voluntary data request from the Home Office, and not all areas had to respond

<sup>4</sup> Although it is assumed that an equal number of gang injunctions have been issued each year, it could be that there was a curve in take up after the legislation was issued. In this situation a fewer number of injunctions would have been issued in the first year and more in years 2 and 3. Therefore, in the do nothing case more gang injunctions could be issued per year at the steady state.

<sup>5</sup> 155 for adults and 40 for youths

across England and Wales as the EGYV areas are the priority areas with a gang and serious youth violence problem.

21. The upper bound scenario assumes that the number of gang injunctions issued per year increases to the levels initially estimated in the previous impact assessment (see paragraph 19): 155 per year in total. **Therefore, the upper bound assumes an additional 108 adult injunctions each year**, when the number of injunctions issued in the base case is taken into account.
22. The restrictive definition of a gang has made it difficult for the number of gang injunctions granted each year to be reached. Option 2 is designed to try and address this problem and make the initially estimated number of gang injunctions achievable. However, experience has shown that granting an injunction is more difficult than initially expected and it is therefore felt there could be slight optimism within the original estimates.
23. The estimates below try and adjust for this optimism by revising down the total number of gang injunctions expected to be granted each year. The estimates below use an average number of injunctions granted per area, which may not be representative of future gang injunction numbers.
24. Of the 25 EGYV areas that provided information on the number of gang injunctions issued in their areas only eleven had used gang injunctions. The average number of adult injunctions issued each year per area for these eleven areas is 3.2<sup>6</sup>. The central estimate scenario assumes that all 33 areas would start to use adult gang injunctions at an average of 3.2 per area per year. **This means under the central estimate there would be an additional 59 adult injunctions each year**<sup>7</sup>.
25. In the lower bound scenario it is assumed that only two thirds of the 33 EGYV areas (22) will increase the number of injunctions granted each year, because some areas are already able to target gang nominals effectively and are assumed to be operating at capacity. 22 EGYV areas are currently not using gang injunctions and if they start using them at the same average rate as the eleven areas that are issuing injunctions (3.2 per year) there would be **an additional 24 adult injunctions per year in the lower bound scenario**.

#### Additional youth injunctions

26. As with the adult injunctions, the upper bound scenario assumes that the number of gang injunctions issued per year increases to the levels initially estimated in the previous impact assessment (see paragraph 19): 40 per year in total. **Therefore, the upper bound assumes an additional 39 youth injunctions each year**, when the number of injunctions issued in the base case is taken into account.
27. A similar technique for working out the central estimate and lower bound for youth injunctions cannot be used because there have been too few injunctions issued over the last two years. This also adds to the argument that the original estimates could have been slightly optimistic.
28. Instead, the ratio of adult to youth injunctions in the upper bound scenario is assumed to hold constant in the central estimate and lower bound scenario. This ratio (approximately 4 adult injunctions to every 1 youth injunction) is also consistent with the ratio of ASBOs issued to under 18s and those issued to over 18s in 2012<sup>8</sup>.
29. Therefore, the number of youth injunctions issued each year in **the central estimate assumes additional 26 youth injunctions each year and the lower bound assumes additional 17 youth injunctions each year**.

<sup>6</sup> The impact assessment assumes an equal distribution of the number of injunctions issued per year in each of the 33 EGYV areas, but in reality the distribution is not even. The number of injunctions issued per area is expected to continue to be higher in some areas than others, but without information about the expected increase of injunctions in individual areas it is not possible to work out the total number of additional injunctions issued. An equal distribution is used to simplify calculations.

<sup>7</sup>  $33 \times 3.2 = 106 - 47 = 59$

<sup>8</sup> <https://www.gov.uk/government/publications/anti-social-behaviour-order-statistics-england-and-wales-2012>, Table 1

30. Table E.1 shows the number of additional injunctions in each scenario per year.

Table E.1

<b>Scenario</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
<b>Number of additional adult injunctions</b>	24	59	108
<b>Number of additional youth injunctions</b>	17	26	39
<b>Total additional gang injunctions</b>	<b>41</b>	<b>85</b>	<b>147</b>

31. The central estimate happens to be closer to the lower bound than the upper bound. The central estimate is based on actual numbers of gang injunctions, which has been substantially below the estimates used in the previous impact assessments. It would be unlikely that the number of gang injunctions granted would increase fourfold to reach the upper bound limit and the central estimate reflects this.

**Number of hearings per injunction**

32. Feedback from the EGYV priority areas indicates that more than one hearing is required per injunction. A hearing is required to issue an interim injunction and then a final hearing takes place to issue the full injunction. Therefore at least two hearings are required per injunction and this is assumed in the lower bound scenario.

33. In some circumstances there may be more than two hearings before an injunction. One EGYV area stated that there could be four hearings before a full injunction is issued, and this makes up the upper bound estimate. **The mid-point of this, 3, is the number of hearings assumed in the best estimate scenario.**

34. If the injunction is appealed or the injunction is breached then there will be additional hearings. It is assumed that there is only one additional hearing if there is an appeal or a breach.

**Preparation time**

35. The police and local authorities also need to spend time applying for a gang injunction and gathering evidence in preparation of a hearing. The process involves file preparation, liaising with the Directorate of Legal Services, collecting the cheque for the court fee, travel to and from court and the time spent in court. This process is assumed to take **80 hours of police and local authority time per injunction**, which is based on feedback from seven EGYV areas about how long it currently takes to prepare for a hearing. The EGYV areas do not collect specific data on the length of time to prepare for an injunction but have provided rough estimates for several injunctions, with which the estimates are based on.

36. There is a large amount of variation in the length of time that it takes to prepare for a gang injunction depending on a number of factors. In particular, the length of time it takes to prepare for a hearing would depend on the number of gang nominals being researched, the availability of evidence, and the knowledge and experience of staff. In one EGYV area for example it took three officers and half an analyst four months to prepare for twelve injunctions, while in another it took four staff three weeks to prepare for twelve injunctions. This uncertainty is taken into account in our upper and lower bound scenarios. The upper bound assumes it takes 130 hours (approximately three weeks) and the lower bound assumes that it takes 40 hours (one week) per injunction. These are the maximum and minimum values from the responses once the responses were adjusted for outliers.

37. There have still been relatively few gang injunctions, with some EGYV areas not needing to issue an injunction, and others issuing one. Therefore, the process is still relatively new and it is expected that the applicant time should reduce as familiarity with the process increases. In addition, under Option 2 the definition of a gang is being adapted to better suit the nature of

gang violence in the UK, and this should make it less time consuming to gather evidence. This could bring down these costs.

### **Breach Rate**

38. Of the 25 (out of the 33) EGYV areas who responded to the voluntary data request about gang injunctions from the Home Office, responses show that from January 2011 to January 2014, 49 individuals breached their gang injunctions. This provides an **estimated breach rate of 45%**. This is in comparison to the breach rate for an Anti-Social Behaviour Order (ASBO), which is 57.9%<sup>9</sup>. This higher breach rate is assumed in the upper bound scenario, and the lower bound scenario assumes a breach rate of 30%. This is consistent with a previous Home Office impact assessment introducing gang injunctions for 14 -17 year olds.
39. There are some differences between ASBOs and gang injunctions, which make the usefulness of this comparison limited. ASBOs are more often attached to a criminal conviction than before an offence is committed, and they do not allow for positive requirements, whereas gang injunctions do. Nevertheless it is a useful proxy to use in sensitivity analysis.

### **Appeal Rate**

40. Feedback from EGYV areas suggest that there have been six contested gang injunctions, and so the best estimate assumes an appeal rate of 6%<sup>10</sup>. There is uncertainty around this and so the upper bound scenario assumes an appeal rate of 10% and the lower bound scenario assumes an appeal rate of 2%.

### **Court Fees**

41. Following discussions with the Ministry of Justice court fees are set at £280 for a hearing going to a county court and £480 for a hearing going to the High court. It is assumed that all hearings go through the county court, as no previous gang injunction has gone through the High court, and it would be rare for it to do so.

### **Legal Aid**

42. Since a specific legal aid code relating to gang injunctions under Section 34 of the 2009 Policing and Crime Act was introduced, there have been around 20 closed cases for which legal aid costs information is available. Of these cases, the average cost to the legal aid agency was £6,600<sup>11</sup>. This figure provides only an approximation of costs as it is based on a small number of cases for which there is considerable variation (£400 - £18,000) in the cost per case.
43. The average Legal Aid cost for a breach of an injunction hearing in 2014/15 is expected to be £286<sup>12</sup>, based on 2013/14 data. This is drawn from the average cost of legal aid for a Crown Court Contempt Case and is used here as a proxy for the legal aid cost of contempt of court for a county court case. This figure breaks down into Litigator Fees (£140) and Advocacy Fees (£146) and has also been adjusted by 8.75% to account for fee cuts being introduced in 2014/15<sup>13</sup>.

### **Disposals**

44. Following a breach there are a number of out of court disposals that can be issued. The types of disposals available vary depending on whether an adult injunction or a youth injunction has been breached.

<sup>9</sup> <https://www.gov.uk/government/publications/anti-social-behaviour-order-statistics-england-and-wales-2012>, Table 7

<sup>10</sup> 4 appeals from 108 injunctions is 3.704%

<sup>11</sup> Following discussions with MoJ

<sup>12</sup> Following discussions with MoJ

<sup>13</sup> Note that this figure is only an approximate value, and the major caveats of this are that: This is an overall average cost, and not a "per unit" cost; Crown and County court fees cannot necessarily be exchanged like-for-like, and; this is an average across all case types, and may not be entirely representative of the cost accrued as a result of a gang related hearing.



45. The impact assessment relating to the introduction of gang injunctions in 2009 uses ASBO disposals as a proxy for the disposals for gang injunctions. Without data to provide a more robust estimate, it is again assumed that the ASBO disposals proxy for adult gang injunctions disposals<sup>14</sup>.
46. For an adult injunction the following level of use for each disposal is assumed:
- No action - 16%
  - Fine - 9%
  - Imprisonment - 59%. It is assumed that the cost of a prison place is £28,000 per year<sup>15</sup> and the average sentence is 5 months<sup>16</sup>.
  - Community Sentence / Suspended Sentence - 14%. Costs for probation and community sentences are approximately £2,600 per year in 2012/13 prices<sup>17,18</sup>.
  - Conditional Discharge - 2%
47. There have only been two gang injunctions issued to 14 - 17 year olds and so the level of use for each disposal for youth gang injunctions is assumed to be the same as in the 2012 impact assessment. These are:
- No action - 19%
  - Fine - 5%
  - Supervision Order - 66%
  - Secure Children's Home - 1%
  - Secure Training Centre - 3%
  - Young Offenders Institution - 6%
48. In terms of possible detention disposal costs for 14-17 year olds, the following unit costs per supervision order or secure placement based on an average time of two months are used<sup>19</sup>:
- Supervision Order - £3,240
  - Secure Children's Home - £33,900
  - Secure Training Centre - £35,400
  - Young Offenders Institution - £9,600

## **OPTION 2** **COSTS**

### **Transition costs**

49. Gang injunctions have been being used for a number of years now, and the proposed changes to the legislation are not designed to impose additional burden on those using gang injunctions. It is aimed at making them easier to use. Also, there are only two small changes proposed, so it is assumed that any costs of understanding the new legislation will be negligible. A practical guide and a legislative toolkit will be made available to assist practitioners to put together applications for gang injunctions, which will aim to minimise any costs.
50. Sensitivity around transition costs are shown in the upper bound scenario. In this case it is assumed it takes 15 minutes of time for practitioners to familiarise themselves with the new legislation. For each practitioner who has to familiarise themselves with the process the cost

<sup>14</sup> Anti-social behaviour order statistics: England and Wales 2012, Table 12

<sup>15</sup> Provided by the MOJ

<sup>16</sup> The average sentence for an ASBO is used as a proxy. Anti-social behaviour order statistics: England and Wales 2012, Table 13

<sup>17</sup> The probation costs are based on national costs for community order/ suspended sentence order, found at NOMS, Probation Trust Unit Costs, Financial Year 2012-13 and up-rated in line with the GDP deflator of 2% ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/266322/GDP\\_Deflators\\_Autumn\\_Statement\\_December\\_2013\\_pdate\\_v2.xls](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266322/GDP_Deflators_Autumn_Statement_December_2013_pdate_v2.xls)).

Source: MoJ internal analysis, 2013.

<sup>18</sup> Annex 1 provides further risks about the figures.

<sup>19</sup> Based on discussions with the MOJ

would be £9. This shows that there would need to be a very large number of practitioners involved for the costs to be significant.

### Recurring costs

51. The assessment of ongoing costs is set out below. Best estimates are provided in this section with upper and lower bound estimates dealt with in the Sensitivity Analysis section.

### Applicant Costs

52. Applicants are usually local authorities or the police, with feedback suggesting that it is mainly the police that carry out the preparation. The average hourly wage for a police officer of rank sergeant and below is £36.51 including on-costs. The average hourly wage for local authorities is assumed to be the same, but this could overestimate the size of the costs.

53. The average time to apply for an injunction is assumed to be 80 hours and so the average cost per injunction is approximately £3,000. If 85<sup>20</sup> injunctions are applied for each year then the annual cost on the police or local authorities is **£0.25 million**. This gives a present value cost of £2.1 million over ten years.

54. The legislation allows for a gang injunction to specify positive requirements. Examples of this could be mediation, anger-management or coaching. There will be an opportunity cost to providing these positive requirements, which could fall to a range of agencies. It has not been possible to quantify these costs due to the number of different variations in types of requirements.

### Court Fees

55. Court fees are set at cost so small changes in caseload should have a zero net impact on Her Majesty's Courts and Tribunals Service (HMCTS)<sup>21</sup>. The court fee covers the resource spent by HMCTS in dealing with the hearings.

56. The applicant pays the court fee and so there is a cost to local authorities or the police. Taking into account the expected number of breaches and the expected number of appeals, the cost of court fees to local authorities and the police is equal to **£0.08m** a year and £0.7 million over ten years.

### Legal Aid

57. The estimate of the legal aid costs for initial hearings, breach hearings and appeal hearings, based on the fact that everybody subject to an application for a GI is entitled to legal aid are **£0.6 million** a year<sup>22</sup>. Over ten years this cost is estimated to be £5 million and falls on the Legal Aid Agency (LAA). This assumes that everybody applies for legal aid. As gang injunctions are a civil case type there is no way to guarantee that everyone charged under the code will receive legal aid. The assumption that everybody receives legal aid might overstate the costs to the LAA.

### Adult Disposals

58. Following a breach of an adult injunction the following disposals are available; no action, fine, custodial sentence, community service, conditional discharge and suspended sentence.

59. A custodial sentence is assumed to be issued 59% of the time following a breach. Given the average cost of a prison place for a year (£28,000) and the average length of sentence (5 months) provides an annual cost to National Offender Management Service (NOMS) of **£0.2 million**.

<sup>20</sup> 59 adult injunctions and 26 youth injunctions

<sup>21</sup> Based on discussions with the MOJ

<sup>22</sup> This breaks down into £560,000 a year for initial and appeal hearings combined and £11,000 a year for breach hearings

60. A community sentence/ a suspended sentence are issued 14% of the time following a breach. Given the unit cost per probation start (so per offender given a community sentence/suspended sentence), £2,600, the annual cost to NOMS is **£0.01 million**.
61. A fine is issued only 8.5% of the time following a breach. As not all fines will be paid, there may be fine enforcement costs. The original impact assessment in 2009 assumed that the unit cost for each fine not paid was between £121 and £181, with a best estimate of £151. This has been adjusted for inflation and so the best estimate in 2013 prices is £167. The lower bound is revised upwards to £134 and the upper bound to £200.
62. It is also assumed that the proportion of fines that aren't paid is 50%, again consistent with the original impact assessment. The lower bound assumes 25% of fines are not paid and the upper bound assumes 75% of fines that are not paid. The cost to HMCTS of fine collection is assumed to be **£200** a year. Sensitivity around this estimate is shown in Section F, but it is not a significant cost driver.
63. It is assumed that the other types of disposal do not impose a cost.

### Youth Disposals

64. Following a breach of an youth injunction the following disposals are available; no action, fine, supervision order, placement in a secure children's home , placement in a secure training centre and detention in a young offenders institution. The costs of these disposals are assumed to fall on the youth justice secure estate.
65. A supervision order is assumed to be issued 66% of the time following a breach. Given the average cost of a two month supervision order (£3,240) the annual cost to the Youth Offending Teams is approximately **£0.03 million**. A two month sentence is assumed but legislation allows for a three month maximum sentence. It is unlikely that all breaches will receive the maximum length of sentence, and assuming two months is consistent with the 2012 impact assessment.
66. A placement in a secure children's home (SCH) is issued only 1% of the time following a breach, and the cost of a two month placement is £33,900<sup>23</sup>. Given the average cost of a two month placement in a SCH (£33,900) the annual cost to the youth secure estate is **£4,000**.
67. A placement in a secure training centre (STC) or a young offenders institution (YOI) occur 3% and 6% of the time respectively. The cost of a two month placement for an STC is £35,400 and for a YOI is £9,600, and so there is a further annual cost of **£12,500** on the youth secure estate.
68. A fine is issued only 5% of the time following a breach. As with the adult injunctions it is assumed that only 50% of fines will be paid and so there may be fine enforcement costs. This imposes an annual cost of **£50** on HMCTS.

### Total costs

69. Table E.2 demonstrates the costs incurred by each agency under Option 2.

Table E.2

	<i>Average Annual</i>		<i>Net Present Value</i>	
<b>LAs / Police</b>	£	0.34m	£	2.89m
<b>HMCTS</b>	£	0.00m	£	0.00m
<b>Legal Aid Agency</b>	£	0.57m	£	4.92m
<b>NOMS</b>	£	0.01m	£	0.08m
<b>HM Prisons</b>	£	0.19m	£	1.59m
<b>Youth Secure Estate</b>	£	0.02m	£	0.20m

<sup>23</sup> Figures provided by MoJ analysts

Youth Offending Service	£	0.03m	£	0.22m
<b>Total</b>	<b>£</b>	<b>1.15m</b>	<b>£</b>	<b>9.90m</b>

## BENEFITS

### Fine Income

70. If there are more fines issued from an increase in the number of breaches then there may be additional fine income for the criminal justice system (CJS). The proportion of fines used for disposals is 8.5% for adults and 5% for youths.
71. The average fine for a gang injunction is not known and so an estimate based on fines for other offences is used. The MoJ sentencing statistics<sup>24</sup> provide the median fine amount for a range of offences. The minimum fine for an indictable offence is £73<sup>25</sup> and the maximum fine is £200<sup>26</sup>. These are used as the lower and upper bound and the mid-point (£137) is used in the best estimate scenario.
72. This gives a benefit to the HMCTS of **£402** a year. A breach of a gang injunction is not a criminal offence, so it is expected that the fines will be lower for gang injunctions and this may overestimate the benefit, but this is not a significant driver.

### Crime

73. The measures in Option 2 are designed to tackle gang-related violence. It has not been possible to evaluate the level of crime reduction from gang injunctions due to external factors that may also reduce the level of gang violence, and it is difficult to estimate the crime reduction benefits associated with the implementation of option 2. Therefore, a break-even analysis is presented below to show the number of 'violence against the person' offences that would need to be prevented in order to offset the policy costs and provide a positive net present value. Violence against the person is the category that is most analogous with gang-related crime.
74. The Home Office estimates the average cost of 'violence against the person' offences is approximately £13,400<sup>27</sup>. **86 offences would need to be prevented for the policy to break even each year.** The total number of violence against the person incidents recorded by the police in 2012/13 is 601,138<sup>28</sup>. This is a fall of 0.01% of total violence against the person offences.
75. If each additional gang injunction prevented one incident of gang-related violence then, in the best estimate scenario, the policy would prevent 85 'violence against the person' offences and be extremely close to breaking even. This indicates that it should be feasible for this policy to provide an overall benefit to society. The break-even analyses for the upper and lower bound estimates are provided in the NET EFFECT section below.
76. Another objective of Option 2 is to address to problem of urban street gangs in relation to the drugs market. A further break-even analysis can be conducted to show by how much the scale of the drugs market in the UK would have to reduce by because of this policy in order to deliver a positive return.
77. The Home Office estimates the scale of the UK illicit drugs market to be £3.7 billion<sup>29</sup>. **Therefore, this policy would have to cause a reduction in the drugs market of 0.03% in a**

<sup>24</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/203849/5-sentencing-tables-dec12.xls](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/203849/5-sentencing-tables-dec12.xls)

<sup>25</sup> For theft and handling stolen goods

<sup>26</sup> Excluding motoring offences (£230) the maximum fine is for sexual offences

<sup>27</sup> Home Office Online Report 30/05, but uplifted for inflation to put in to 2013 prices

<sup>28</sup> <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-328141>, Appendix tables, Table A4

<sup>29</sup> Home Office Research Report: "Understanding organised crime: estimating the scale and the social and economic costs" (2013) - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/246390/horr73.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246390/horr73.pdf)

year for the policy to break-even. If a reduction in the illicit drugs market were to be combined with a reduction in 'violence against the person' offences then each would need to reduce by half as much (i.e. 43 offences and 0.02% of the drugs market).

78. Benefits relating to increased public confidence in the police and local authority's ability to deal with gang-related violence, and wider positive impacts on the community, are more difficult to quantify, but ought to be considered.

## NET EFFECT

79. The net effect of this policy is a cost of £9.9 million over 10 years. The net present value is negative; however crime reduction benefits have not been included in the calculations which could result in a cost saving to the UK as a whole. The impact needed for the policy to break-even is minimal and it is likely that the total benefits should outweigh the total costs.

80. Table E.3 summarises the cost of the policy to each agency.

Table E.3

	Average Annual		Net Present Value	
LAs / Police	-£	0.34m	-£	2.89m
HMCTS	-£	0.00m	-£	0.00m
Legal Aid Agency	-£	0.57m	-£	4.92m
NOMS	-£	0.01m	-£	0.08m
HM Prisons	-£	0.19m	-£	1.59m
Youth Secure Estate	-£	0.02m	-£	0.20m
Youth Offending Service	-£	0.03m	-£	0.22m
<b>Total</b>	<b>-£</b>	<b>1.15m</b>	<b>-£</b>	<b>9.90m</b>

81. A number of assumptions were made in the calculation of the costs and benefits of Option 2. Sensitivity analysis demonstrates the scale and direction of potential error resulting from these assumptions. The detailed results of this analysis can be found in Section F, but table E.4 shows the average annual cost and the net present value of our upper and lower bound scenario. It also shows the number of 'violence against the person crimes' that need to be prevented for the policy to break-even under each scenario.

Table E.4

Scenario	Low	Central	High
Net cost (average annual)	-£0.4m	-£1.1m	-£2.5m
Required crime reduction	31	86	186

## ONE-IN-TWO-OUT (OITO)

82. This policy is not within the scope of one-in-two-out.

## F. Risks

### OPTION 2

83. There is a risk that the number of gang injunctions applied for will be higher than assumed in the upper bound scenario. The estimates are based on feedback from the EGYV areas and assumptions used in the two previous impact assessments. There is a possibility that the change in definition of a gang or expanding what a gang injunction can be issued for will enable greater than expected uptake in the use of gang injunctions. However, the level of uptake would have to increase significantly to reach the 195 injunctions per year assumed in the upper

bound scenario, and therefore the probability of this risk being realised is low. The additional cost of an extra injunction is approximately £10,000 and so if the risk were realised the impact should be low.

84. The changing nature of gangs has meant that the original definition of a gang was unduly restrictive. Gangs are also involved in criminality beyond violence or the threat of violence. Option 2 aims to address these issues, but there could also be a risk that gangs change the way they operate again in response to the new legislation. This could cause gang injunctions to become less effective than expected.
85. To demonstrate the uncertainty in some of the assumptions used sensitivity analysis is conducted. The variations in the assumptions are shown in Table F.1. A lower bound is constructed where 41 gang injunctions are issued, with a breach rate of 30%<sup>30</sup>. The upper bound assumes 147 gang injunctions are issued and a breach rate of 58%, which is the same as for an ASBO.
86. There is also variation in the amount of time taken to file an application for a gang injunction. Following feedback from the EGYV areas the minimum length of time to fill out a gang injunction application was four days or 32 hours, and the maximum amount of time was five weeks or 200 hours. Using the hourly wage of £36.51 the lower bound assumes it costs approximately £1,500 to apply and the upper bound assumes it costs approximately £4,750.
87. The sensitivity analysis takes into account the possibility that disposals may be used at different rates. The upper bound for adult disposals assumes that the proportion of breaches that receive a 'no action' disposal falls to 8%. The other types of disposals are then adjusted based upon the proportion of disposals that they make up in the best estimate scenario to make 100%. The lower bound scenario assumes that 'no action' increases to 32% and the others are again adjusted based on the proportion they make up in the best estimate scenario to make 100%.
88. The upper and lower bounds for youth disposals are assumed to be the same as in the previous impact assessment. This is because of the small number of youth disposals that have been issued since 2012.

Table F.1

	<i>Central estimate</i>	<i>Lower bound</i>	<i>Upper bound</i>
<b>Number of adult injunctions</b>	59	24	108
<b>Number of gang injunctions</b>	26	17	39
<b>Breach Rate</b>	45%	30%	58%
<b>Appeal Rate</b>	6%	2%	10%
<b>Application time (hours)</b>	80	40	130
<b>Adult Disposals</b>			
No action	16%	32%	8%
Fine	9%	11%	9%
Imprisonment	61%	49%	67%
Community sentence / Suspended sentence	14%	11%	15%
Conditional discharge	2%	1%	2%
<b>Youth Disposals</b>			
No action	19%	31%	7%
Fine	5%	3%	7%
Supervision Order	66%	60%	72%

<sup>30</sup> This breach rate is consistent with the lower bound used in the 2012 impact assessment on Gang Injunctions for 14 -17 year olds

Secure children's home	1%	0%	2%
Secure training centre	3%	2%	4%
YOI	6%	4%	8%

89. F.2 demonstrates the average annual net benefit associated with each estimated scenario.

Table F.2

	<i>Central estimate</i>		<i>Lower bound</i>		<i>Upper bound</i>	
<b>LAs / Police</b>	-£	0.34m	-£	0.09m	-£	0.89m
<b>HMCTS</b>	-£	0.00m	-£	0.00m	-£	0.00m
<b>Legal Aid Agency</b>	-£	0.57m	-£	0.27m	-£	0.99m
<b>NOMS</b>	-£	0.01m	-£	0.00m	-£	0.47m
<b>HM Prisons</b>	-£	0.19m	-£	0.04m	-£	0.02m
<b>Youth Secure Estate</b>	-£	0.02m	-£	0.01m	-£	0.06m
<b>Youth Offending Service</b>	-£	0.03m	-£	0.01m	-£	0.05m
<b>TOTAL</b>	-£	1.15m	-£	0.42m	-£	2.50m

## G. Enforcement

90. The changes to legislation will complement the existing legislative framework.

## H. Summary and Recommendations

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

Table H.1

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>2</b>	£9.9 million (PV over 10 years)	£0.0 million (PV over 10 years)
		Crime reduction benefits are not quantified. Break-even estimates suggest that 86 'violence against the person' offences will need to be prevented for the policy to have a positive overall benefit.

92. Gang injunctions are valuable tools to tackle gang violence. They allow courts to place a range of prohibitions and, importantly, supportive, positive requirements, on the behaviour and activities of a person (aged 14 or over) involved in gang-related violence. Gang injunctions have been underused and evidence from practitioners suggests that this is in great part due to the definition of "gang" being too restrictive. Option 2 seeks to address this issue, providing a definition that better reflects the nature of how gangs operate in the United Kingdom.

93. In addition, gangs tend to be engaged in a wider range of criminality than simply violence. Gangs are increasingly exploiting drugs markets, which in turn leads to gang violence. This is why we are expanding the range of activities a person must have engaged in, encouraged or assisted before a gang injunction can be imposed to include any involvement in support of the illegal drugs market. This provision seeks to prevent gang members and associated individuals from engaging in activity to support the illegal drugs market and protect those in the early stages of involvement, in particular young children, from being further drawn into such activity.

94. The net effect of this policy is a cost of £9.9 million over 10 years. The net present value is negative; however crime reduction benefits have not been included in the calculations which

could result in a cost saving to the UK as a whole. It is likely that these benefits will outweigh the costs.

## **I. Implementation**

95. We intend to implement these changes in the Serious Crime Bill to be introduced in the fourth session of Parliament.

## **J. Monitoring and Evaluation**

96. Normal post-legislative scrutiny will be undertaken to assess the impact of these changes to legislation.

## **K. Feedback**

97. Any lessons learned from the Monitoring and Evaluation, together with any specific feedback obtained, will help to inform future policy considerations.

## **L. Specific Impact Tests**

### **Statutory Equality Duties**

98. A Policy Equality Assessment has been done.



## Annex 1. Ministry of Justice Assumptions

99. Table A.1 shows the risks and limitations to the assumptions provided by the Ministry of Justice.

Table A.1

Assumptions	Risks
<p>Probation costs:            Costs for probation and community sentences are approximately £2,600 per year in 2012/13 prices.</p>	<ul style="list-style-type: none"> <li>• Costs represent the national average fully apportioned cost based on delivery by 35 Probation Trusts in 2012/13.</li> <li>• Unit costs are calculated from the total fully apportioned cost of relevant services divided by starts in that year and do not consider which elements of cost are fixed and which will vary based on service volumes. Major changes to the volume, length or content of community sentences or the characteristics of the offender population could affect the unit cost.</li> <li>• The costs consist of costs for both (a) managing the sentence and (b) delivering court-ordered requirements. Excludes centrally managed contract costs for Electronic Monitoring and Sentence Order Attendance Centres.</li> </ul>
<p>Prison costs:            The cost per prison place is £28,000. Source: NOMS management accounts addendum (2011).</p>	<ul style="list-style-type: none"> <li>• The cost of additional prison places is also dependent on the existing prison population, as if there is spare capacity in terms of prison places then the marginal cost of accommodating more offenders will be low due to existing large fixed costs and low variable costs. Conversely, if the current prison population is running at or over capacity then marginal costs may be significantly higher as contingency measures will have to be found.</li> </ul>

