

Summary: Analysis & Evidence

Policy Option 1

Description: Replace existing powers to deal with environmental ASB and public nuisance with a new Community Protection Notice, public space protection order, closure power and introduce a new accountability mechanism.

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/K	High: N/K	Best Estimate: -£18.5

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£10.7m	1	n/k	n/k
High	£12.9m		n/k	n/k
Best Estimate	£11.9m		£1.0m	£20.7m

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

Costs to registered social landlords (private sector) have been identified from attending additional meetings through the introduction of the Community Trigger. This is an ongoing cost. Transition costs to the police, local authorities, businesses and registered social landlords of introducing all the proposals under Option 2 have also been quantified. Other costs of option 2 could not be quantified so this presents a limited assessment of the costs.

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

Transition costs to HMCTS could not be quantified but are thought to be minimal. Ongoing costs to business, police, local authorities, social landlords, HMCTS, HM Prison Service, the CPS, and the LSC could not be quantified. The introduction of the Community Protection Notice, public space protection notice and closure power could result in additional costs to those businesses which are responsible for environmental ASB or nuisance that is affecting the community's quality of life, and refuse to address it when prompted. Business representatives we consulted suggested this would represent a small minority of all businesses although they were not able to provide a number.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	n/k		n/k	n/k
High	n/k		n/k	n/k
Best Estimate	n/k		£0.3	£2.2

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

We have quantified benefits to local authorities from introducing the public space protection order as this will be quicker and easier to apply for than the orders it replaces. Other benefits as a result of implementing option 2 could not be quantified (see non-monetised benefits for further details). As such, this estimate of the benefits underestimates the true benefits likely to be generated from more effectively tackling environmental anti-social behaviour.

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

Key benefits of the Community Protection Notice and Orders include providing practitioners with a more flexible and effective means of dealing with environmental ASB. The simplification of a number of powers into these orders should mean that practitioners can use more appropriate measures to deal more effectively with reports of environmental ASB. This may lead to indirect benefits for businesses and individuals. The Community Trigger could help agencies identify and protect repeat and vulnerable victims of ASB (including businesses), potentially reducing the risk of costs later on.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
--	--------------------------	------

There is a potential overlap between the new system and the statutory nuisance regime, which will be mitigated through the legislation and accompanying guidance. Transition arrangements for public space protection orders risk creating some additional costs for local authorities, although there would be a 3 year transition period to mitigate this. We have assumed that while there may be a small increase in the number of individual notices and orders issued, this could be offset by a reduction in use of other powers (such as byelaws and the Town and Country Planning Act 1990).

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £1.0	Benefits: N/K	Net: -£1.0	Yes	IN

Evidence Base (for summary sheets)

A. Strategic Overview

Background

- 1) The term 'anti-social behaviour' (ASB) covers a range of nuisance¹, disorder and crime which affect people's lives on a daily basis. This can include:
 - i) litter, vandalism and graffiti (often described as 'environmental anti-social behaviour');
 - ii) drunk or rowdy behaviour in public;
 - iii) aggressive dogs;
 - iv) intimidation and harassment; and/or
 - v) noisy or abusive neighbours.
- 2) Since the introduction of the Anti-social Behaviour Order (ASBO) in 1998, the range of powers available to front line professionals to deal with anti-social behaviour has grown substantially, through more than ten separate pieces of legislation. Powers tended to be introduced to deal with very specific issues, and measures to deal with environmental anti-social behaviour and nuisance include: Litter Clearing Notices; Street Litter Control Notices; Defacement Removal Notices; Gating Orders; Dog Control Orders; Designated Public Place Orders; Crack House Closure Orders; and Premises Closure Orders. All of these are civil in nature with some resulting in a criminal conviction on breach.
- 3) Such a wide range of orders mean that responsibility for dealing with anti-social behaviour is shared between a number of agencies, in particular the police, councils and registered providers of social housing. This profusion of powers, with different tests, thresholds and safeguards, can be confusing for practitioners and the public alike.² The lack of systematic, central monitoring of many of them – particularly of those powers to tackle environmental anti-social behaviour – means we have limited evidence on patterns of use.
- 4) Despite efforts to curb it, anti-social behaviour is still a significant problem. In the year ending December 2012, 2.3 million incidents of anti-social behaviour were recorded by the police³, and many more are reported to other agencies or not at all. That overall figure includes 8 per cent that were recorded as incidents classified as environmental anti-social behaviour and 64 per cent as 'nuisance'.⁴ Moreover, in the past ten years, public perceptions of environmental anti-social behaviour and nuisance have barely changed - according to the most recent figures in the Office for National Statistics' Crime Survey for England and Wales (2012), 29 per cent of people think that litter is a big problem in their area, and 24 per cent said the same for drunk and rowdy behaviour.⁵ At the same time, only around half of people felt that the police and partners in their area were tackling anti-social behaviour effectively.⁶

Groups Affected

¹ Here and throughout the document, we refer to the dictionary, rather than a specific legal, definition of 'nuisance'. For example, we do not mean nuisance as defined in the Environmental Protection Act 1990

² DCLG guidance for social landlords (www.communities.gov.uk/documents/housing/pdf/1530807.pdf) provides advice on which interventions could be considered. Some are formal, some informal, but the list includes 19 different options.

³ Crime in England and Wales 2011/12 – these are not National Statistics.

⁴ Crime in England and Wales Quarterly Bulletin (March 2012)

⁵ Out of seven individual anti-social behaviour strands that respondents were asked about. These were abandoned or burnt out cars, noisy neighbours or loud parties, people being drunk or rowdy in public places, people using or dealing drugs, teenagers hanging around on the streets, rubbish or litter lying around, and vandalism, graffiti, and other deliberate damage to property.

⁶ Crime Survey for England and Wales 2012.

- 5) The proposals outlined in this impact assessment would affect the groups listed below. Not all groups would be impacted by each proposal and in many cases the impact would be positive. More detail is provided later on in this Impact Assessment.

The following groups would be affected by one or more of our proposals:

- i) the police;
 - ii) local authorities;
 - iii) private registered providers of social housing;
 - iv) health services;
 - v) businesses and including civil society organisations;
 - vi) Her Majesty's Courts and Tribunals Service (HMCTS);
 - vii) the Crown Prosecution Service (CPS);
 - viii) the Legal Services Commission (LSC);
 - ix) HM Prison Service; and
 - x) victims and witnesses of anti-social behaviour.
- 6) In assessing the relative impact of these proposals on the organisations listed above, we have consulted widely. Within government with Department of Health, HM Treasury, Department for Transport, Department for Education, Department for Environment, Food and Rural Affairs, Cabinet Office, Ministry of Justice, Department for Communities and Local Government, HMCTS, the CPS and the Attorney General's Office.
- 7) In addition to the government departments listed above, we have also consulted with a number of trade bodies and organisations including the British Retail Consortium and Association of Convenience Stores. This is to allow for a better understanding of how these proposals will impact businesses. Further details can be found in Section E. Since our draft bill was published, we have continued this engagement, enabling businesses to help mould the policy as it develops.

B. Rationale

- 8) **The public want action:** Anti-social behaviour remains the local crime and policing issue that matters most to the public⁷ when considered alongside other types of crime. Anti-social behaviour is also a key driver of public confidence in the police and local authorities⁸. So improving the powers available to the police and others to tackle anti-social behaviour is likely to have a positive impact on victims and communities across the country.
- 9) **The cost to the economy is increasing:** the costs of dealing with anti-social behaviour place significant costs on businesses and society.
- Estimates of cost vary - recent research conducted by One Poll on behalf of RSA insurance suggested that all types/forms of anti-social behaviour cost UK businesses £9.8 billion in 2011.
 - The same study suggested almost 20 percent of businesses surveyed were impacted by anti-social behaviour in 2011, costing each affected business an average of £20,000 to rectify.⁹
 - The Retail Crime Survey 2012 estimated that incidents of criminal damage caused by anti-social behaviour (such as graffiti or broken windows) had increased. Total costs to business from environmental anti-social behaviour are estimated to be over £7 million in 2011/12.¹⁰

⁷ Based on Ipsos MORI Home Office public opinion polling.

⁸ 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.

⁹ <http://www.theaccountancy.co.uk/anti-social-behaviour-having-negative-effect-on-uk-businesses-1634.html>

¹⁰ British Retail Consortium Crime Survey 2011 http://www.brc.org.uk/brc_show_document.asp?id=4324&moid=7614 . The cost of criminal damage caused by anti-social behaviour is calculated using figure from the BRC Retail Crime Survey.

- Graffiti is the most widespread form of vandalism on railway land and costs millions of pounds each year to deal with. Network Rail has estimated that graffiti alone costs them around £3.5 million each year to deal with¹¹.
- Recent HouseMark benchmarking data has suggested that the cost to social landlords of all types/forms of anti-social behaviour has increased to £270 million in 2010/11 – up from £230 million in 2009/10. While these costs cover all types of anti-social behaviour, reports related to environmental anti-social behaviour (noise, litter, graffiti, etc.) make up around 60% of the total.¹²

10) **Environmental anti-social behaviour can have larger, indirect impacts:** Anti-social behaviour does not only have a direct financial impact on individuals, communities and businesses. The externalities resulting from environmental anti-social behaviour can be far more subtle. For example:

- i) The so-called '**broken windows effect**' suggests that, unchecked, graffiti and vandalism may lead to more serious disorder. 2008 research by Kees Keizer of the University of Groningen in the Netherlands showed that the mere presence of graffiti doubles the number of people littering and stealing in a neighbourhood¹³. 2009 research by 'Keep Britain Tidy' found that members of the public who are satisfied with how their area looks are significantly more likely to be satisfied with how safe they feel in their area¹⁴.
- ii) Anti-social behaviour has also been identified as both a cause and effect of **areas declining to the point where they require regeneration**.¹⁵ Therefore, failing to tackle anti-social behaviour effectively, and failing to prevent it from happening in the first place, means that there are likely to be serious consequences which may lead to a spiral of decline, and potentially greater costs.
- iii) Anti-social behaviour can lead to serious **health issues** including infections from dog waste.

Public Consultation

11) In 2010, a Home Office review of tools and powers¹⁶ found, in relation to environmental anti-social behaviour, that there were too many different powers to tackle environmental anti-social behaviour. These powers regularly relied on Fixed Penalty Notices (FPNs) to prevent people from committing environmental offences which were often ineffective.

12) In response to this, the Home Office sought to develop a new, more flexible toolkit that would better meet the needs of practitioners and victims alike. A public consultation was launched in February 2011 to gather views on whether this reformed set of powers was a proportionate response to those affected by anti-social behaviour.¹⁷ There was a high level of public interest in the consultation and broad support for simplification of the anti-social behaviour toolkit¹⁸. In addition to this, the Home Office anti-social behaviour unit hosted 14 half-day workshops in seven cities across England and Wales, discussing the proposals with over 600 practitioners from local authorities, social landlords and the police. The response to this consultation was published in May 2012 as the White Paper

¹¹ <http://www.networkrail.co.uk/aspx/1022.aspx>

¹² While this covers all aspects of anti-social behaviour, calls relating to environmental anti-social behaviour make up around 60% of total reports. While it is not possible to accurately estimate what proportion of total costs fall on environmental anti-social behaviour, as most reports are currently resolved informally through warning letters, interviews and mediation, it is likely that unit costs are broadly similar in the majority of cases.

¹³ Nov. 21 issue of the journal *Science*, Kees Keizer of the University of Groningen in the Netherlands, <http://www.livescience.com/7599-graffiti-triggers-crime-littering.html>. This was based on a specific experimental approach and, as such, should be applicable to the UK as it was not specific to behaviours in the Netherlands.

¹⁴ Keep Britain Tidy (2009) *The Word on Our Street*.

¹⁵ Views of NDCs, Focus Group Reports, February 2005

¹⁶ Unpublished Home Office data.

¹⁷ The consultation document, *More Effective Responses to Anti-social Behaviour*, can be found here:

<<http://www.homeoffice.gov.uk/publications/consultations/cons-2010-antisocial-behaviour/>>

¹⁸ 57 per cent of stakeholder consultation respondents (e.g. local authorities, police, Community Safety Partnerships, housing providers, business groups etc) being supportive of our aims, and only 9 per cent against the proposals. The remaining responses did not know or felt the change would make little or no difference.

*Putting victims first*¹⁹. Further details of stakeholder responses are set out in the previous impact assessment that accompanied the draft bill²⁰.

- 13) In addition to the 2011 public consultation, further views and advice have been sought during the pre-legislative scrutiny period. The ASB team at the Home Office have consulted with police, practitioners, and businesses to fully understand the impact of these proposals and worked with stakeholders to ensure that the proposals are as effective as possible.
- 14) On December 13 2012, the draft Anti-Social Behaviour Bill was published so that it could undergo pre-legislative scrutiny by the Home Affairs Select Committee (HASC). This provided an opportunity for all those affected by the changes, from frontline professionals to victims and businesses, to comment on the detailed clauses. Over 200 pages of evidence were submitted to the Committee and a number of oral evidence sessions were also held. The HASC published their final report on 15 February and recommended a number of changes to the legislation. A number of those related to the community trigger have been accepted and a summary of these is included below.

How the policy has evolved

- 15) As a result of the public consultation, subsequent engagement with businesses and practitioners, and pre-legislative scrutiny by the Home Affairs Select Committee we have made the following changes to the initial proposals.
- i) Safeguards have been included in the Community Protection Notice to ensure that responsible businesses and organisations are not impacted by these proposals;
 - ii) The ability to activate the Community Trigger has been extended to businesses so that they also have the power to hold local agencies to account as victims of anti-social behaviour; and
 - iii) We will allow local agencies, including registered providers of social housing, to agree thresholds and processes for managing for the Community Trigger that best meet their needs and the needs of local people.
 - iv) We will make a number of technical changes to the bill as recommended by the HASC which will ensure smooth and effective implementation but which will have minimal effect on the impacts of the proposals. These include the publishing of information relating to the use of the Community Trigger.
- 16) **In conclusion, given the level of public concern, and the amount of money agencies spend dealing with local anti-social behaviour²¹ there is a clear rationale for developing a set of simple, faster, more effective powers which build on the best elements of the current toolkit, and for giving local communities powers to hold agencies to account.**

C. Objectives

- 17) Our policy objectives, in streamlining and improving environmental anti-social behaviour powers into the **community protection notice, public space protection order, and closure power** are to:
- i) reduce the size of the toolkit, shifting the emphasis from a specific power for every issue to giving professionals the means to respond flexibly to a range of neighbourhood problems;
 - ii) reduce the bureaucracy and cost associated with the more formal powers, so that agencies can act more quickly to protect victims, communities and businesses from serious anti-social behaviour and environmental damage.

- 18) Our policy objectives in developing the **community trigger** are to:

¹⁹ <http://www.homeoffice.gov.uk/crime/anti-social-behaviour/white-paper/>

²⁰ <http://www.homeoffice.gov.uk/publications/about-us/consultations/community-remedy-consultation/>

²¹ In 2006, the NAO estimated the annual cost at over £3 billion. Local authorities spent £858 million on street cleansing in 2008-09. The estimated cost of graffiti removal to the country is over £1 billion a year.

- i) get a better response for victims and enable them to take action if they have been passed from agency to agency or have reported their problem over and over again, with no resolution. This includes increasing the focus on risk and vulnerability of the victim;
- ii) improve the services provided by local agencies (e.g. police, social landlords, local authorities etc) on anti-social behaviour through empowering victims including more effective multi-agency working / improve agencies working together to solve persistent anti-social behaviour;
- iii) improve the response to anti-social behaviour through locally devised and locally driven solutions, thereby reducing anti-social behaviour through better problem-solving.

D. Options

Option 1 is the do nothing option.

19) Under the do nothing option, **the law would remain as it currently stands**, so the numerous current tools to deal with place-based anti-social behaviour would remain, and victims would have no avenue to force agencies to take action.

Option 2 is to legislate

20) This would include making changes to streamline and simplify the anti-social behaviour toolkit, and to introduce a mechanism to empower individuals, communities and businesses to meet the aims outlined above. This option is consists of four strands, these are not mutually exclusive and would be introduced together under Option 2.

New Powers

Old Powers	New Powers
Litter Clearing Notices Street Litter Clearing Notices Defacement Removal Notices	Community protection notice
Designated Public Place Orders Gating Orders Dog Control Orders	Public space protection order
Premises Closure Orders Crack House Closure Orders Noisy Premises Closure Orders Section 161 Closure Orders	Closure power
No specific power to hold agencies to account on anti-social behaviour	Community trigger

- i) **Introduce a community protection notice.** A notice designed to deal with particular problems or nuisances which negatively affect the community's quality of life which could direct the person responsible to stop causing the nuisance and/or require them to 'make good'. This would replace Litter Clearing Notices, Street Litter Control Notices and Defacement Removal Notices;
- ii) **Introduce a public space protection order.** An order to deal with anti-social behaviour in a public place, applying restrictions to how that public space can be used. This would replace Designated Public Place Orders, Gating Orders and Dog Control Orders;
- iii) **Introduce a closure power.** An order which could be used to close premises temporarily, or to go to the court to close the premises for up to six months. This would replace Premises Closure Orders, Crack House Closure Orders, Noisy Premises Closure Orders and Section 161 Closure Orders.

- iv) **Introduce a community trigger.** This would be a completely new power to force local agencies to deal with persistent anti-social behaviour where they have previously failed to do so.

21) Further details about of the new orders can be found in the previous impact assessment²² that accompanied the publication of the Draft Bill.

E. Appraisal (Costs and Benefits)

General Assumptions and Data

22) The following appraisal considers the costs and benefits associated with implementation of the proposed policy changes, against a baseline 'do nothing' option. The impact of each proposal has been assessed separately below.

23) Due to a lack of centrally collected data, we have not been able to estimate volumes going forward in this appraisal section. Current volumes of many of the orders issued are not known so a baseline option cannot be estimated accurately and, as a result, there are little data on which to base any estimates of volumes going forward in the policy option.

24) As a result, we have not been able to quantify all of the costs or benefits associated with the either Option 1 (do nothing) or Option 2. Where possible, we have assessed costs and, in addition, non-monetary impacts have been included. Evidence has been gathered from local authorities, registered social landlords, and businesses to inform a discussion of the likely impacts and estimate costs and benefits where data have been available.

Option 2: Introduce the new toolkit and community trigger

25) An assessment of the costs and benefits are outlined below for each proposal. Risks that are specific to each group are dealt with as they arise while overarching risks are dealt with in Section F.

26) As well as these formal powers, there are a number of other non-regulatory ways in which local areas, including businesses, can deal with a range of environmental anti-social behaviour, for example through the 'love where you live' campaign, the Big Tidy Up (<http://www.thebigtidyup.org/>) and through the work of groups like 'Keep Britain Tidy'. Non-regulatory approaches using volunteers and community groups to keep public space clean currently play a key part in tackling environmental anti-social behaviour such as litter and graffiti. This would remain the same under any proposed changes.

27) We would expect practitioners to continue using these informal interventions in the first instance in most cases. Informal interventions can take the form of:

- i) Acceptable Behaviour Contracts;
- ii) mediation;
- iii) interviews and visits; and
- iv) letters;

28) As with current powers, the powers included under Option 2 should generally be considered after more informal interventions have been exhausted or where they would not be appropriate. In some cases, such as the community protection notice, we have made clear that it should never be used for a first instance. There are many informal interventions that are currently used by practitioners which are successful in dealing with low-level anti-social behaviour before more formal powers are needed.

²² This impact assessment is available here: <http://www.homeoffice.gov.uk/publications/about-us/consultations/community-remedy-consultation/ia-reform-anti-social-powers?view=Binary>

29) **Transition costs:** Costs incurred in implementing the proposals discussed under Option 2 have been estimated on the basis of evidence from local authorities, registered social landlords, and businesses. The transition costs presented here relate to the introduction of all proposals and are largely based on the courses offered by the Anti-Social Behaviour Action Team in Manchester and Yorkshire Housing as these are representative of similar courses across the country²³. Any transition costs relevant to just one proposal will be discussed in the appropriate section.

- i) **Police:** We would expect neighbourhood police officers and PCSOs who deal with anti-social behaviour to require training. This amounts to approximately 38,000 staff.²⁴ However, it will be optional for the police to use the new power and as such only minimal training should be required. Half a day's training should suffice and, assuming that this would cost approximately £75, would cost **£2.8 million**. There will also be the cost of the time spent at the training, which will be realised in the form of an opportunity cost for police forces. This amounts to an opportunity cost of approximately **£5.5 million**.²⁵
- ii) **Local authorities:** Council staff should already be familiar with the processes of applying for these orders so the costs will not be substantial. Based on data from a selection of local authorities²⁶, we estimate that between 4,700 and 6,100 anti-social behaviour and environmental health staff would require training in the use of the new tools and powers. Assuming that this requires a half day course costing approximately £75 this would result in costs of between **£0.3 and £0.5 million**. This would come out of existing local authority training budgets so would be opportunity in nature. In many cases, we would expect local authorities to have money set aside to deal with changes in legislation such as these. As with police costs, there would also be the opportunity cost of attending the training. This would amount to approximately **£0.3 million**.²⁷
- iii) **Registered social landlords (Private sector suppliers):** Based on data from HouseMark we estimate that approximately 2,400 staff would require training in the use of the new tools and powers. Assuming that this requires a day's course costing approximately £150 this would result in costs of **£0.4 million**. As with local authority training costs, we would expect these to be realised as opportunity costs from existing training budgets. There would also be an opportunity cost of approximately **£0.3 million** as a result of attending the training.²⁸
- iv) **Registered social landlords (Public sector suppliers):** Based on data from HouseMark we estimate that approximately 1,700 staff would require training in the use of the new tools and powers. Assuming that this requires a day's course costing approximately £150 this would result in costs of **£0.3 million**. As with local authority training costs, we would expect these to be realised as opportunity costs from existing training budgets. There would also be an opportunity cost of approximately **£0.2 million** as a result of attending the training.²⁹
- v) **Business (including civil society organisations):** We expect there to be minimal transition costs to business. However, businesses have suggested, through our consultation, that they would like the opportunity to understand the new powers. We have agreed to work with relevant business groups to develop a short, joint guidance note covering everything they need to know about the new powers. Reading this guidance would be voluntary and so we would only expect businesses to do so if they had decided that the benefits from doing so would outweigh the costs. However, if this is not the case and businesses read the guidance

²³ These course were designed in 2011 based on the needs and requirements of practitioners across England and Wales, with prices set at a competitive rate.

²⁴ Estimated using Police Strength data published on the Home Office website: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/hosb0912/> (accessed September 2012). Officers and PCSOs with "community safety/relations" or "neighbourhood" functions were assumed to be relevant.

²⁵ Using the Home Office estimates of the cost of a police officer's time based on ASHE and CIPFA data from 2008, uprated to account for inflation to 2011/12 prices using the HM Treasury deflator series.

²⁶ 10 in total, covering a range of urban and rural areas. This will not give a perfect estimate of the number of staff requiring training in England and Wales but given the available data this is the best estimate. Training costs are based on courses provided by the ASBAT team in Manchester.

²⁷ Using ASHE data, average (mean) hourly wage costs of "local government administrator" is £11.93 in 2010. This employment type was thought to be the best available proxy. A half day course is assumed to last four hours.

²⁸ Using HouseMark data the average annual wage cost for a registered social landlord was £31,073 in 2010.

²⁹ This was calculated using the same assumptions as for private sector registered social landlords.

even if there is no benefit from doing so, we have modelled upper bound costs using the following assumptions. As a worst case scenario, if all business retailers, charities, and social enterprises decided to read the guidance, there would be a small associated transition cost. This is likely to be realised as an opportunity cost in the employees' time. There are a total of 284,490 retail outlets in the UK³⁰. In addition there are approximately 68,000 social enterprises in the UK, and 180,000 charities³¹ in England and Wales. Guidance would be short and available online in most cases. We assume that understanding how the new powers could affect them and what the community trigger threshold was in their area would require 10 minutes of one employees' time. Assuming average wage costs for store managers³², this would cost approximately £2.0 million. A lower bound of a zero net cost for each business, social enterprise and charity has been assumed on the basis that the benefit of reading the guidance equals the cost. We assume that the best estimate is the midpoint of these two estimates and is approximately **£1.0 million**.

- vi) **Her Majesty's Court and Tribunal Service (HMCTS):** There may be some transition costs for HMCTS as legal staff are required to understand the new anti-social behaviour powers. We would expect key staff to require half a day of training. However, we are not able to determine how many staff will require the training and in any case, as with local authority training costs, we would expect these to be realised as opportunity costs from existing training budgets. We will work closely with HMCTS as they seek to revise guidance to ensure that any costs associated with that are minimised.
- vii) **Crown Prosecution Service (CPS):** There may also be a small transition cost to the CPS in revising legal guidance, dissemination of information or guidance, and awareness raising and training.

³⁰ Taken from British Retail Consortium data. Available here: http://www.brc.org.uk/brc_stats_and_facts.asp (Accessed 13 March 2013). The number of retailers is approximately 187,390. This has been used as a lower bound for the transition costs.

³¹ Taken from the Charity Commission for England and Wales. This will underestimate the number of charities in England and Wales as not all charities are required to register with the Charity Commission. However, this is the best available estimate.

³² Taken from Annual Survey of Hours and Earnings (ASHE) data for 2011 and assuming 21 per cent non-wage labour on-costs. This is approximately £23 per hour.

Environmental Anti-Social Behaviour – Summary Table

Current notices (the ‘do nothing’ option)

Notice	Who can use it	Who it can be used on	What it can do	Penalty for breach
Street Litter Control Notice (civil)	Local authorities	Specified retail and commercial premises such as cinemas service stations and cafés where there is a persistent problem with litter	Place requirements on the named individual (or company they represent) to remove litter and refuse at a stated distance at stated intervals	Criminal offence with a fine of up to £2,500 Heard in the Magistrates’ Court
Litter Clearing Notice (civil)	Local authorities	Individuals and businesses	Remove litter from land in their area	Criminal offence with a fine of up to £2,500 or fixed penalty of £100 Heard in the Magistrates’ Court
Defacement Removal Notice (civil)	Local authorities	Owners of street furniture, ‘statutory undertakers’ such as Network Rail, and educational institutions	Remove the specified graffiti within 28 days or the local authority can remove it and recover the costs	No criminal offence and no penalty

Introduce a Community Protection Notice (option 2)

Notice	Who can use it	Who it can be used on	What it can do	Penalty for breach
Community protection notice (civil)	Local authorities, the police, designated private registered providers of social housing	Individuals and businesses	Deal with all persistent environmental nuisance such as litter, graffiti etc. Require the owner of the property to address the issues e.g. clear the litter. Could only be issued where there was no reasonable excuse and there would be a defence of having taken all practical measures.	Criminal offence with a fine of up to £2,500, or £20,000 for businesses. A fixed penalty notice of up to £100 would also be available. Heard in the Magistrates’ Court

Introduce a community protection notice

Transition Costs

30) There may be transition costs, additional to those described above, related specifically to the community protection notice. These are set out below.

- i) **Police:** There could be small capital costs associated with acquiring necessary equipment (e.g. noise-measuring equipment). However, as we do not expect the police to take the lead in dealing with this type of anti-social behaviour, only a small number of devices per force would be necessary and this would depend on whether the police force in question believed it represented value for money to purchase the equipment. One retailer produces a range of sound level meters costing between £950 and £3,450. Assuming that between 0 and 100 per cent of police forces purchased five sound level meters, with an average cost of £2,200, the costs would be between £0.0 million and £0.5 million. If the best estimate is that 50 per cent of forces require this equipment then this would cost **£0.2 million**.

Costs

31) **Volumes:** The majority of consultation respondents felt that volumes would increase compared to the baseline given that the notice covers a wider range of behaviour, can be issued by more people, and applies in more situations. We have not been able to quantify this due to a lack of data regarding the current use of existing orders (in terms of volumes, breach rates and costs of issue), as these data are not collected centrally. However, since publishing the draft legislation, Home Office officials have run a number of workshops across the country with frontline professionals and tested this further. Local authorities, the police and social landlords feel that any increase in usage is only likely to be small and targeted at specific gaps in the current legislation.

32) However, the total amount of environmental anti-social behaviour reported is not expected to increase significantly as a result of the introduction of the community protection notice. Agencies (including the police and registered providers of social housing) are currently already dealing with this behaviour using other formal or informal interventions, many of which may not have been appropriate in the circumstances. For instance, section 215 of the Town and Country Planning Act 1990 and section 16 of the Local Government and Miscellaneous Provisions Act 1982 can both be used for dealing with visual disamenities (such as broken cars in the front garden). In addition, discussions with practitioners in England and Wales have highlighted that there are a number of byelaws which have been used locally to deal with environmental anti-social behaviour.

33) Therefore, we hope that any increase in the use of the community protection notice might be offset by the savings associated with not undertaking one of the other processes mentioned above. This may increase efficiency as more appropriate orders are used to tackle environmental anti-social behaviour. It will however, be for frontline practitioners to decide whether a community protection notice is the most appropriate intervention. Any increase in volumes could have an impact on the CJS.

34) It is also worth noting that, unlike the powers it replaces, this notice would not be used for a first offence. Guidance will make clear that every effort should continue to be made to deal with incidences of environmental anti-social behaviour using informal tools. Data from the social housing sector suggests that currently, non-judicial interventions are proving to be highly successful. For instance, data from the HouseMark benchmarking exercise for 2011/12 showed that less than 5 per cent of cases required more formal interventions, such as a Notice Seeking Possession (2.8 per cent), ASBO or ASBI (0.9 per cent) and eviction (0.7 per cent).

- 35) **Unit Costs:** There is no reason why the unit cost of issuing a notice should be higher than the orders it replaces³³. As mentioned above, if volumes increase, we would expect to see a decrease in other formal or informal interactions. However, we have not been able to model the impact of the simplification on volumes, we cannot quantify these costs. We have outlined the likely impacts on each of the key bodies affected, even where monetised costs are not possible.
- 36) **Local authorities:** Local authorities already deal with environmental anti-social behaviour and will continue to lead the action. While the widening of the power is likely to result in a greater number of notices than the combined total of the three notices it replaces, the amount of environmental anti-social behaviour is not expected to increase. As a result, any increase in the number of notices issued is unlikely to place a significant burden on local authorities as community protection notices should be able to deal more effectively and flexibly with incidents of environmental anti-social behaviour than the powers they replace. In addition, as well as this, more practitioners would be able to access these notices, which could lessen the burden on local authorities.
- 37) **Police:** We do not expect a large change from the 'do nothing' option as it is unlikely that many litter or defacement issues would be reported to the police. This is because people are likely to continue contacting the local authority. There would be an option for the police to use the notice if they wanted to, though we would expect local authorities to continue to take the lead in this area as the duties on them under the Environmental Protection Act 1990 would remain. This would mitigate any risk of this being seen as purely a police responsibility and as such, we do not expect a significant impact on the police. Those reporting environmental anti-social behaviour to the police rather than their council will continue to do so – the new notice will simply provide the police with a new option for responding to continued complaints. Where the issue amounts to criminal damage (e.g. in relation to graffiti), the police would already be involved.
- 38) **Private registered providers of social housing:** The community protection notice would be available for social landlords to use if they wanted to and were designated the power by the local authority. So, there would only be a change from the 'do nothing' option if landlords chose to opt in. While there would be an ongoing requirement to train new staff in the community protection notice, this would form part of the package of training currently undertaken outlining the tools and powers available to social landlords. As landlords would have to choose to opt in, it is reasonable to expect that they would only do this in situations where the benefits of doing so were likely to outweigh any costs incurred in the process. Therefore, we would assume a zero net effect for private registered providers of social housing.
- 39) **HM Courts and Tribunal Service (HMCTS):** These notices are issued out of court, so there would only be an impact on magistrates' courts on breach. This is the same as the existing litter notices. In 2011, there were 161 proceedings at magistrates courts for failure to comply with litter clearing or street litter control notices.³⁴ However, there is currently no penalty for breach of defacement removal notices - instead there is requirement to pay the cost of removing any defacement. As such, there could be some additional breach hearings both as a result of changes to the CPN compared to the baseline and of an increase in volumes of notices leading to an increase in the number of appeals or breaches. Additional costs would be opportunity in nature.
- 40) As the focus will be on more positive interactions and early intervention before a community protection notice is issued, it is also hoped that the breach rate could fall. This could offset any increase in volumes. We have been unable to quantify this due to a lack of existing data.

³³ For example estimates obtained from a survey of local authorities in 2007 showed the cost of issuing litter clearance notices, including investigation, appeal, follow-up and administration is around £450 per Notice. However, we have no data on the unit cost of other Notices being replaced by the Community Protection Notice.

³⁴ Data provided by the Ministry of Justice's Justice Statistics Analytical Services.

- 41) **Crown Prosecution Service (CPS):** As for HMCTS impacts, these notices are issued out of court, so there would only be an impact on the CPS on failure to comply with a notice, which is a criminal offence. This is the same as the existing litter notices, but will represent an increase compared to the baseline for CPNs previously issued as defacement removal notices, as there is currently no penalty for breach. No increase in the breach rate is expected so any increase in volumes will be a result of an increase in the volume of Notices issued.
- 42) **Legal Services Commission (LSC):** There would be no impact on legal aid, as breach hearings for the notices would not qualify for legal aid, as they would fail on the 'Interests of Justice' test. This represents no change to the baseline, 'do nothing' option.
- 43) **HM Prison Service:** Of the 161 proceedings in 2011 for failure to comply with existing litter clearing notices, none resulted in a custodial sentence for the defendant.³⁵ We would not expect this to change as a result of implementing the community protection notice.
- 44) **Business (including civil society organisations):** The main area where this would have an impact on a business in contrast with the 'do nothing' option is in relation to graffiti. Current defacement removal notices (requiring businesses to remove graffiti even if they had chosen not to do so) only apply to certain businesses. Any business can already be required to clear and/or control litter. However, there are various ways in which businesses can be required to deal with problems affecting the amenity of their local area (including clearing graffiti) already, so this would not be a totally new requirement.
- 45) For example, a business can be served a section 215 notice under the Town and Country Planning Act 1990 which can require them to take steps to clean up land when its condition adversely affects the amenity of the area.³⁶ Evidence from a number of the workshops run with councils and the police has suggested that this is one option for dealing with graffiti where the current litter notices do not apply. However, many local authorities also make clear that they offer a free graffiti cleanup service so the cost to many businesses of having the graffiti removed would be zero. Local authorities have suggested that while section 215 notices could more justifiably be used to deal with civil society organisations (such as the scout huts) because of their wider community role, they would generally not use the power on grounds of reasonableness. They have suggested that this position is unlikely to change. As such, there should be no additional impact on civil society organisations.
- 46) Following our engagement with businesses, we expect the impact on business to be low. At a focus group of smaller retailers organised by the Association of Convenience Stores, the businesses attending reported that in their experience the benefit of quickly cleaning any graffiti outweighs the cost so they choose to clean any graffiti themselves. Our proposal would involve no change from the 'do nothing' option for businesses like these. We tested this further during our recent engagement with businesses, following publication of our white paper. On this specific impact their view was that impacts were likely to be low (although they were unable to quantify them). As discussed in section B, they were more concerned to ensure that safeguards built in since the initial consultation were protected to ensure that responsible businesses were not impacted unfairly.
- 47) However, in light of the fact that there will be a minority of businesses that do not deal with graffiti on their land and buildings, we have attempted to cost the possible impact on them. Discussions with retailers, business owners and trade bodies suggest that the majority of businesses deal with graffiti on their own or using services provided by the local authority. However, in order to try to estimate the cost for any businesses affected by the introduction of the CPN we have assumed that five per cent of retailers will be affected and will be forced to clean up graffiti on their shop. The British Retail Crime Survey does not identify the cost of removing graffiti to business but rather includes this in its costs of repairing criminal damage caused by anti-social behaviour – which can include broken windows and other low level damage. This is likely to overstate the cost of removing graffiti but we

³⁵ Data provided by the Ministry of Justice's Justice Statistics Analytical Services.

³⁶ <http://www.communities.gov.uk/documents/planningandbuilding/pdf/319798.pdf>

have assumed this to be the best available proxy for the purpose this appraisal. It will also provide an upper bound for the costs to business of removing graffiti.

- 48) In 2011/12, the cost to business of dealing with criminal damage caused by anti-social behaviour was £7 million. We assume that these are the costs to those businesses that clean graffiti quickly and so would not be issued a CPN. Assuming the costs of removing graffiti for those businesses are the same as the costs for businesses that do not clean graffiti, the additional cost to the offending business would be approximately **£0.4m each year**. In reality less than five per cent of businesses would be affected and many of these would have been dealt with using the Town and Country Planning Act 1990 provisions or local byelaws under the current regime so these businesses would already be incurring these costs. The costs calculated should be considered as a robust best estimate of the impact on business of the CPN.
- 49) We have put a number of safeguards in place, following discussions with businesses to ensure that these costs are as low as possible for responsible businesses. These include:
- protections for businesses who had taken all reasonable steps to remove or prevent graffiti but who had been unable to rectify the problem;
 - a defence on breach if all practical measures had been taken to avoid or prevent the problem; and
 - making clear that a CPN should not be issued for a single incident and that informal measures should be first used to try to deal with the problem.
- 50) For businesses operating under licence, or those who are subject to an agreement under the statutory planning regime, a community protection notice could not be issued. This represents no change from the do nothing option (option 1).

Benefits

- 51) We have not been able to quantify any of the benefits relating to this proposal. This is because of a lack of evidence about how notices are currently used and how this might change under Option 2. A number of benefits are expected but there are no data sufficient to quantify this. However, we have qualitatively assessed the benefits of implementing the community protection notice below.

Non-quantifiable benefits

- 52) Streamlining the toolkit will make it easier for practitioners (local authorities, the police, and social landlords if given the powers by the local authority) to use, enabling them to respond more effectively to a range of problems facing the communities they serve. By having one tool that can deal with a range of problems, as opposed to a number of specific tools, this should help reduce costs for local authorities by making it easier to establish multi-disciplinary teams, and could reduce ongoing training costs. It would also mean that one tool could be used to address a range of issues in one location (for example if a place was affected by both graffiti and litter), potentially reducing existing duplications.
- 53) In addition, there are the following benefits of this proposal:

- Community protection notices are more flexible than the orders they replace so can be used to deal with changing problems without having to wait for new legislation from central government.** This allows for a localised response to neighbourhood problems. They can also be used by non-specialists (e.g. there is no requirement to have a degree in environmental health to use them) so this reduces training costs for local agencies. We would expect that these benefits should far outweigh any transition costs highlighted above but there is little quantitative evidence to support this.
- There are additional social welfare benefits from a more effective approach to reducing levels of noise, graffiti and other forms of environmental anti-social behaviour from**

communities. These tools can be used more effectively than the current set of orders by more practitioners. This is expected to generate additional benefits for the wider community in improving quality of life for residents and local businesses. We believe the more effective toolkit could result in a reduction of environmental anti-social behaviour in communities.

54) There are also the following additional benefits of this proposal for specific groups:

- i) **Local authorities:** At present local authorities have limited powers to remove graffiti from private property³⁷. Our broader and more flexible notice would provide more options to them in dealing with problems affecting their local community. We would also enable agencies to charge the full cost of carrying out any works to 'make good' so that they are no longer forced to provide a service below the cost of both materials and labour.³⁸ This would reduce costs currently incurred by local authorities as, at present, they cannot claim for any overheads when 'making good' a problem.³⁹ However, we would still ensure that local authorities could not charge a premium for their services to minimise impacts on businesses.
- ii) **Police and private registered providers of social housing:** Having one, simpler power would be easier for these organisations to use, than the range of existing powers. Specifically, giving the police and landlords the ability to deal with noise through these notices would be beneficial as 42.1% of English and 60% of Welsh local authority areas don't have an out of hours noise service⁴⁰ whereas a third of the reports of anti-social behaviour made to social landlords were about noise. So, under the notice, the police and landlords would be able to deal better with persistent and complex cases, allowing them to use their staff time more effectively.
- iii) **HM Courts and Tribunal Service:** It is possible that the introduction of the community protection notice will result in a reduction in the use of other anti-social behaviour powers currently used to tackle graffiti, litter, or noise which can involve the courts. For example, Section 215 of the Town and Country Planning Act 1990, which can result in a criminal conviction on breach. The introduction of the community protection notice could mean that other formal interventions are used less frequently. This could offset the costs of any increase in the volume of breaches resulting from an increase in the number of CPNs issued (see paragraphs 31-34).
- iv) **Businesses:** Option 2 allows practitioners to deal with graffiti on all private property so would prevent a build up of graffiti which could lead to people feeling less safe⁴¹ and impact on how many people use the area (e.g. people not using a shopping precinct anymore because one or more of the shops are covered in graffiti). This would have a positive impact on those businesses in that area that had been affected by a neighbouring business or property which was causing a detriment to the local area through. There would also be indirect benefits to the whole neighbourhood in improving the amenity of the area, making it more attractive to shoppers and other visitors. There may also be benefits for national businesses that currently have to deal with a number of different processes and byelaws. We would expect a benefit as local agencies begin to use the new power as all branches will require the same information rather than locally tailored guidance, which varies depending on the particular byelaw a local authority tended to use.
- v) **Individuals and Communities:** The benefits of a more welcoming, clean environment have been covered previously in this impact assessment. Providing local agencies with more

³⁷ For example, defacement removal notices can't be used on private property, though s215 notices under the Town and Country Planning Act 1990 can be used to deal with properties affecting the amenity of a local area, including dealing with graffiti.

³⁸ Currently, local authorities can either provide a free service or charge a fee to cover the cost of the materials only meaning they are operating at a loss. We will change the legislation to ensure that local authorities can charge for the full cost of carrying out any work.

³⁹ For example, the current Defacement Removal Notice guidance states that "Local authorities may only recover those costs they have incurred in cleaning the property concerned and should not include any other overheads" and they also can't recoup costs for any preventative measures installed (e.g. painting with anti-graffiti paint).

⁴⁰ Taken from CIEH 'SurveyMonkey' survey carried-out among all England and Wales local authorities between 4 and 18 November 2011. The response rate was 79.4% for English local authorities and 68.2% for Welsh local authorities

⁴¹ 2009 research by 'Keep Britain Tidy' found that members of the public who are satisfied with how their area looks, are significantly more likely to be satisfied with how safe they feel in their area: *The Word on our Street 2009*

http://www.keepbritaintidy.org/ImgLibrary/WordonourStreetFINAL_1441.pdf

effective tools and powers to deal with environmental anti-social behaviour should benefit the individuals living in that area.

Risks

55) The new power is being created to simplify the existing system so the intention is that the new one should be more efficient and less bureaucratic. Nevertheless a number of risks are being considered and managed. These include the risk:

- i) that new powers will not be used because of a lack of familiarity;
- ii) that by opening these powers out to a wider range of agencies there may be confusion between agencies about who is tackling a specific problem, or duplicate notices may be issued;
- iii) that the greater flexibility of the community protection notice as compared to the notices it replaces could result in a far greater numbers of orders being issued and so higher than expected costs;
- iv) that the simplified process will mean it is possible for agencies to deal with previously unreported incidents of environmental anti-social behaviour which could result in higher than expected costs for some, although not all, agencies;
- v) that these new powers may not be used responsibly at first as a result of inadequate training or education;
- vi) that breach reach rates could increase in comparison with current orders, increasing costs particularly for HMCTS and the CPS; and
- vii) of confusion for members of the public for the same reasons.

56) We would mitigate these by ensuring that local agencies continue to consult with anyone they believe necessary before issuing the new notice and also by ensuring that a notice could only be given if it was reasonable to do so (and it would not be reasonable for two agencies to issue a notice on the same individual for the same problem). We will also provide comprehensive guidance on use of the notice to both practitioners and the public alongside legislation.

Anti-Social Behaviour in Public Spaces – Summary Table

Current orders (the ‘do nothing’ option)

Order	Who can use it	What it can do	What is the process	Penalty for breach
Gating Orders (civil)	Local Authorities	Restrict public access to any public highway by closing it with a gate in order to prevent crime or anti-social behaviour from occurring	The local authority has to advertise and consult on the order and anyone may comment.	There is no penalty for breach
Designated Public Place Order (DPPO) (civil)	Local Authorities	Designate areas that have experienced alcohol-related disorder or nuisance so that there can be restrictions on public drinking. Police officers, PCSOs and individuals designated under the Community Safety Accreditation Scheme can require an individual to stop drinking in that area, and ask them to hand over any alcohol.	The local authority must consult with the police, parish or community council and licensees of any premises which may be affected before making the order. The local authority must also take reasonable steps to consult the owners or occupiers of any land within the area, and is required to consider any representations received. The local authority must publish details of the proposed DPPO in a newspaper.	If someone, without reasonable excuse, fails to comply with a request to stop drinking and hand over any alcohol, they commit a criminal offence, with a maximum penalty of a level 2 fine, or a Penalty Notice for Disorder. Heard in the Magistrates’ Court
Dog Control Orders (civil)	Local Authorities and parish councils	Areas can be designated to control of dogs in parks and open spaces. An order can cover the five offences below: <ul style="list-style-type: none"> - failing to remove dog faeces; - not keeping a dog on a lead; - not putting, and keeping, a dog on a lead when directed to do so by an authorised officer; - permitting a dog to enter land from which dogs are excluded; and - taking more than a specified number of dogs onto land. 	An authority must consult any other primary or secondary authority within the area in which a Dog Control Order is being made. Authorities must also publish a notice describing the proposed order in a local newspaper circulating in the same area as the land to which the order would apply and invite representations on the proposal.	Breach the order has a maximum penalty of a level 3 fine, or a fixed penalty notice. This would result in a criminal offence. Heard in the Magistrates’ Court

Proposal B: Introduce a public space protection order (Option 2)

Order	Who can use it	What it can do	What is the process	Penalty for breach
Public space protection order (civil)	Local authorities	Place restrictions on a specific area either to deal with existing problems or to prevent future ones (e.g. to pre-empt dog fouling in a new park). For example it could be used to prohibit the consumption of alcohol, or require dogs to be kept on a lead.	The local authority would have to consult with the police, the local community (including local businesses) and the Police and Crime Commissioner.	Breach the order would have a maximum penalty of a level 3 fine, or a fixed penalty notice. This would result in a criminal offence. Heard in the Magistrates' Court

Proposal B: Introduce a public space protection order

Transition Costs

57) The public space protection order will replace current Dog Control Orders (DCOs), Gating Orders (GOs) and Designated Public Place Orders (DPPOs). Existing DCOs, GOs and DPPOs would be allowed to run for a maximum of three years following the commencement of the new legislation, at which point they would cease to have effect. Local authorities will therefore need to introduce a public space protection order (PSPO) which at least replicates the requirements of any DCO, GO or DPPO at some point within this timeframe if they want those restrictions to remain in place. This will be associated with one-off implementation costs, such as consulting on the new Order and publicising it (e.g. through new signage). However, local authorities are supposed to keep DPPOs and Dog Control Orders under review (though this is advised in guidance rather than required in statute) so this change should not result in a significant additional cost, only those related to introducing replacement public space protection orders. We assume that there are no additional costs of reviewing orders as this should form part of the baseline. We assume that 50 per cent of existing orders will require replacing within the three year transition period. To estimate these transition costs we assume that there are equivalent numbers of Gating Orders as there are DPPOs. The number of Dog Control Orders issued is not known and has not been estimated. We estimate that there will be transition costs of approximately **£0.2 million** over the three transition years. As the number of Dog Control Orders or the number of public spaces where more than one order is currently in place this could be an over- or an under-estimate. However, this is thought to represent the best estimate given the data available.

58) There will also be an additional transition cost associated with retraining all staff currently required to issue DCOs, GOs and DPPOs. As the staff responsible are likely to be the same individuals covered above for the community protection notice, we do not expect that there would be additional training costs above those highlighted already.

Costs

59) **Volumes:** We know that there were 821 DPPOs in place as of 6 September 2011⁴². Figures for the number of DCOs and GOs are not collected centrally. While the new order is easier to use and can be used by more practitioners, we would expect volumes of orders to decrease, as only one order will be needed to deal a range of different types of anti-social behaviour. We do not expect a change in the physical areas covered by orders, for example a park that is currently subject to byelaws and a DCO and DPPO, would be likely in future be subject to a single PSPO. The difference would be that there would only need to be one order not three. A recent article suggested that in London there are several areas that do suffer from this overlap.⁴³ For the purposes of estimation in this impact assessment, we assume that the number of DPPOs in place in September 2011 will be the best proxy for the minimum number of PSPOs issued each year.

60) **Unit cost:** As outlined in the table above, the process for making both DPPOs and DCOs involves a number of different stages including informal evidence gathering/consultation, legal advice, committee/council decision, statutory processes (e.g. newspaper advertisements). This can be very time consuming, and the estimates that gathered from local authority practitioners as to how long the whole process takes range from 6 to 12 months. Anecdotal evidence from practitioners suggests that approximately 20 hours could be saved per application for a GO/DPPO due to the changes made under this proposal. This would result in savings of £380 per GO/DPPO application⁴⁴. Given

⁴² Local authorities are required to inform the Home Office when they issue a DPPO. This data is held on file, but is not published by the Home Office.

⁴³ <http://www.guardian.co.uk/news/datablog/interactive/2012/sep/11/banned-in-london-zones-dogs-alcohol-gatherings-prohibited>

⁴⁴ Assuming an average of 12 staff hours are required to complete the application process for a CPO (public space).

the assumptions set out above, this would result in savings of at least **£0.3 million** for local authorities each year.

Non-quantifiable costs

- 61) **Local authorities:** As unit costs for the new orders are likely to be lower than for the current orders, it is likely that there will be cost savings for local authorities. For more details see the non-quantifiable benefits section, below.
- 62) **Police:** There will be few additional costs for the police as they would have the same role as under current orders. If orders covered wider areas with more prohibitions, the costs of police enforcement are likely to increase.
- 63) **HM Courts and Tribunal Service (HMCTS):** We expect costs will be largely the same for HMCTS as for existing orders (except for gating orders where there is no sanction for breach). Additional costs will only be incurred if there is an increase in the number of areas covered by orders which leads to an increase in the number of breaches or, alternatively, through an increase in the breach rate. As we set out in the volumes section above, we expect the introduction of PSPOs to result in a reduction of orders. We would also not expect a change in the breach rate as there are no additional provisions in the PSPO as compared to the orders it replaces. There were 138 proceedings for breach of a DPPO in 2011⁴⁵ and given assumptions regarding the number of orders issued, we would not expect this to change substantially and it could reduce. As a result, we expect the net impact on HMCTS to be close to zero.
- 64) **Crown Prosecution Service (CPS):** As for HMCTS, the CPS would only get involved in prosecuting breaches where no Fixed Penalty Notice was issued, or where an FPN was contested. This is the same as the existing orders (except for gating orders where there is no sanction for breach). As for HMCTS, we would expect the net impact on the CPS to be close to zero.
- 65) **Legal Services Commission:** There would be no impact on legal aid, as breach hearings for the orders would not qualify for legal aid, as they would fail on the 'Interests of Justice' test. This represents no change to the baseline, 'do nothing' option.
- 66) **HM Prison Service:** Of the 110 proceedings in 2011 for alcohol consumption in a designated place (breach of a DPPO), only one resulted in a custodial sentence for the defendant. We would not expect this to change as a result of implementing the public space protection order.
- 67) **Business (including civil society organisations):** There would be no additional costs for businesses or private registered providers of social housing in comparison to the 'do nothing option'.

Benefits

- 68) We have not been able to quantify many of the benefits relating to the proposals. This is because of a lack of data and foresight of how the new powers will be used. However, we have quantified the savings resulting from a streamlined consultation process prior to issuing a public space protection order. As described above, a simplified process means that practitioners (local authorities and police) will be able to spend less time applying for these orders saving approximately £380 per order. In addition, they are expected to be applying for fewer orders as current duplication is expected to reduce. We have attempted to identify non-quantifiable benefits below.

Non-quantifiable benefits

- 69) The new orders will maintain the existing benefits of the 'do nothing' option outlined earlier in this document and will also enable other controls to be put in place to prevent disorder and nuisance in

⁴⁵ In all magistrates' courts in England & Wales. Data provided by Ministry of Justice for 2011.

specific places. There are also specific benefits for different groups, and these are outlined below but could not be quantified for the reasons outlined above.

- 70) **Local authorities:** There are likely to be cost savings when using these orders in comparison to the orders they replace. The proposals would make the process simpler and less bureaucratic (e.g. by having lighter touch consultation requirements, not having to go to the Secretary of State for approval (e.g. as in byelaws) and enabling one order to be used to impose a range of prohibitions). This would save local authority officer time, as rather than spending nine months applying for alcohol prohibitions and another nine months applying for dog control measures this could be wrapped up into one process.
- 71) **Police:** The benefit for the police would be that Fixed Penalty Notices (FPNs) will be available to enforce a wider range of restrictions on behaviour in public place, which saves police time. Although FPNs are available for some of the orders being replaced, they aren't currently available for breach of byelaws (which are sometimes used to fill the gaps between the existing narrow orders), or for Gating Orders (where breach is not a criminal offence). The police would also benefit from the fact that a wide range of accredited people (through the Community Safety Accreditation Scheme) could be given the power to issue those FPNs.
- 72) **Private registered providers of social housing:** There would be a benefit in terms of preventing anti-social behaviour on private estates as, with the landowner's consent, this power could enable restrictions to be placed on behaviour on private land, which would help landlords prevent anti-social behaviour on their estates (e.g. by banning skateboarding in the central courtyard on an estate).
- 73) **HM Courts and Tribunal Service (HMCTS):** These orders are issued out of court, so will not involve the criminal courts except on breach. There may be savings for HMCTS as breaches could also be dealt with via a Fixed Penalty Notice to discharge liability (FPN) which will avoid cases going to court unnecessarily.⁴⁶ This is different to the 'do nothing' option in that liability for breach of a byelaw cannot be discharged through an FPN and would require a breach hearing in court.
- 74) **Crown Prosecution Service (CPS):** As for HMCTS, there could be a benefit to the CPS as breaches could also be dealt with via a Fixed Penalty Notice (FPN) which could mean fewer cases going to court. The net impact is expected to be close to zero.
- 75) **Business (including civil society organisations):** Businesses would not be expected to do anything additional as a result of these changes, although they would have the opportunity to respond to consultations if they wanted to. This proposal is likely to bring about indirect benefits for businesses as it would result in an improved local environment, less anti-social behaviour in public space, and more people who feel confident in using public space including using local shops and convenience stores.
- 76) There would also be a benefit in terms of controlling anti-social behaviour in shopping centres and on other privately owned land as with the landowner's consent, this power could enable restrictions to be put in place, which would help businesses prevent anti-social behaviour on their land (e.g. by banning drinking in a shopping centre and enabling the police to enforce these restrictions). This could lead to indirect benefits for businesses, for example if anti-social behaviour in a shopping centre had been preventing customers from entering certain shops.

Risks

- 77) As this is a more straightforward simplification than the creation of the community protection notice, the main risk is around transition arrangements where we propose that local authorities will have to move over to the new system within 3 years which would impose transition costs.

⁴⁶ [We are currently working with MoJ policy leads and Parliamentary Counsel to develop this in a way that has minimal impact on the courts. For instance, Where the FPN is not paid it may be possible to remove it and allow the issuing agency to follow up through another method...

- 78) The simplification of the current powers could result in an increase in the use of the public space protection orders. This could result in costs for local authorities and the police as well as the CJS (HMCTS, CPS, and HM Prisons) if this resulted in additional breaches.
- 79) There is also a risk that if orders covered a broader area or a wider range of behaviours that there may be more breaches which may increase impacts on the criminal courts, HM Prisons or on police enforcement costs. However, this would be mitigated by the fact that breaches could be dealt with through an FPN, which could also be issued by people given the power under the Community Safety Accreditation Scheme, as well as through prosecution in the courts.

Closure Powers to deal with Anti-Social Behaviour – Summary Table

Current orders (the ‘do nothing’ option)

Order	Used by	Applicable to	Test to issue the order	Requirement	Offences/ Breach (All criminal offences)
Crack House Closure Orders (civil)	Police (signed off by the magistrates’ court)	Any premises (business or residential)	Reasonable belief that: <ul style="list-style-type: none"> Premises used for unlawful use, production or supply of Class A drugs (no conviction necessary) Associated with disorder or serious nuisance 	<ul style="list-style-type: none"> Initial notice closes premises for 48 hours Application must be made to magistrates’ court within 48 hours Magistrates’ Court may issue closure order (3 months) and can extend to a total of 6 months 	Offences (without reasonable excuse): <ul style="list-style-type: none"> Obstructing the police Remaining in the property Entering the property Penalty: <ul style="list-style-type: none"> Up to 6 months imprisonment Up to Level 5 fine Heard in the Magistrates’ Court
Premises Closure Orders (civil)	Police and local authorities (signed off by the magistrates’ court)	Any premises (business or residential)	Reasonable belief that: <ul style="list-style-type: none"> A person has engaged in anti-social behaviour on the premises The premises is associated with significant and persistent disorder or persistent serious nuisance 	<ul style="list-style-type: none"> Initial notice closes premises for 48 hours Application must be made to magistrate’s court within 48 hours Magistrates’ Court may issue closure order (3 months) and can extend to a total of 6 months 	Offences (without reasonable excuse): <ul style="list-style-type: none"> Obstructing the police Remaining in the property Entering the property Penalty: <ul style="list-style-type: none"> Up to 6 months imprisonment Up to Level 5 fine Heard in the Magistrates’ Court
Anti-social Behaviour Act 2003 (noisy premises closures) (civil)	Local authorities	Licensed premises	Reasonable belief that: <ul style="list-style-type: none"> A public nuisance is being caused by the noise Closure is necessary to prevent the nuisance 	The premises is kept closed for a specified period not exceeding 24 hours	Offences (without reasonable excuse): <ul style="list-style-type: none"> Permitting the premises to be open Penalty: <ul style="list-style-type: none"> Up to 3 months imprisonment Up to £20,000 fine Heard in the Magistrates’ Court
Licensing Act 2003 Section 161 Closures (civil)	Police (signed off by the magistrates’ court)	Licensed premises	Reasonable belief that: <ul style="list-style-type: none"> There is or is likely to be imminent disorder related to the premises and the closure is necessary A public nuisance is being caused by noise and that 	The premises is kept closed for a specified period not exceeding 48 hours. Magistrates’ consent is required, though this can be obtained retrospectively if necessary.	Offences (without reasonable excuse): <ul style="list-style-type: none"> Permitting the premises to be open Penalty: <ul style="list-style-type: none"> Up to 3 months imprisonment Up to £20,000 fine Heard in the Magistrates’ Court

			closure is necessary		
--	--	--	----------------------	--	--

Proposal C: Introduce a closure power (Option 2)

Order	Used by	Applicable to	Test to issue the order	Requirement	Breach (all criminal offences)
Closure power (civil) – short term closure	Police and local authorities (signed off by the magistrates' court)	Any premises (business or residential)	The order could be made if there is a public nuisance or if there is or is likely imminently to be disorder and that the closure is necessary.	The premises is kept closed for a specified period not exceeding 48 hours. Magistrates' consent is required, though this can be obtained retrospectively if necessary.	Penalty: <ul style="list-style-type: none"> • Up to 6 months imprisonment • Up to Level 5 fine for residential premises, or a £20,000 fine for non-residential premises Heard in the Magistrates' Court
Closure power (civil) – longer term closure	Police and local authorities (signed off by the magistrates' court)	Any premises (business or residential)	The order could be extended if the person has engaged in disorder, anti-social or criminal behaviour on the property, and that the premises is associated with disorder or serious nuisance.	The premises is kept closed for 3 months initially, with a possible extension of up to 6 months.	Penalty: <ul style="list-style-type: none"> • Up to 6 months imprisonment • Up to Level 5 fine for residential premises, or a £20,000 fine for non-residential premises Heard in the Magistrates' Court

Proposal C: Introduce a closure power

Transition costs

80) There will be some transition costs as police forces and local councils will need to train officers to be able to apply for and use the new order. This will form part of the familiarisation costs estimated at the beginning of this appraisal section. The closure element of the closure power is a consolidation exercise and closely mirrors the existing powers, so any transition costs in addition to the 'do nothing' option will be minimal.

Costs

81) **Volumes:** We do not expect numbers of longer term closure orders to increase as this is a simplification of the current processes and not a widening of premises to which it is applicable. This means that there would be no change to the 'do nothing' option in relation to the longer term closure orders. There is limited volume data available for Premises Closure Orders and Crack House Closure Orders. However we know that at least 1,903 Crack House Closure Orders were given between 2003 and 2009 according to voluntary Community Safety Partnership data returns⁴⁷.

82) We do not have volumes for the numbers of short term noisy premises closure orders or section 161 closure orders (which apply to licensed premises). There may be an increase in the use of the short term (less than 48 hour) closure orders as the test would be lower than for the current anti-social behaviour premises closure orders, although it would be the same as the current licensed premises closure orders. As this change is predominantly a merger of the existing orders, we do not anticipate a significant change in volumes.

83) **Unit costs:** We have a unit cost for the police for issuing these orders. According to 2008 estimates, the cost to the police of pursuing the existing crack house closures is in the region of £500 to £2,700. This cost varies from force to force depending on the circumstances of the case. The costs for other agencies involved in the issuing of these orders, such as [local authorities etc] are not known. The unit cost of introducing a closure power is likely to be similar to the cost of the closure orders it replaces.

Non-quantifiable costs

84) **Police and local authorities:** As we do not expect any change in volumes of long-term closure orders from the 'do nothing' option, there are no additional costs to the police or local authorities. The volume of shorter term orders may increase but only because they can now apply to non-licensed premises where local authorities or the police believe there is a change of anti-social behaviour in the near future. Following consultation with police forces and local authorities, we expect that any increase in the number of shorter term orders would be minimal and only likely to affect individuals. We have not been able to quantify the cost of issuing these additional orders. However, it is likely that any cost of applying for the orders will be offset by preventing anti-social behaviour from occurring in the future.

85) **HM Courts and Tribunal Service (HMCTS):** The short-term closure orders have to go to the magistrates' court to be ratified, so any increase in volumes would have an impact on the courts. As we do not have volumes of the use of the current licensed premises orders it has not been possible to quantify the cost. We know from discussions with court staff and practitioners that crack house closure orders require only short court hearings (20 minutes to a few hours). We do not have time estimates for the time taken for premises closure orders or licensed premises closures, but expect this to be similar. So, even if there were a small increase in volumes, this would not have a large

⁴⁷ As these are voluntary data returns this figure is likely to be an underestimate.

impact on court times, and any costs from an increase in volumes would be largely offset by court fees as these are civil orders.

- 86) There were 15 proceedings for breach of closure orders in 2011.⁴⁸ Breach rates for these orders are not known, as the volume of orders issued in 2011 is not known. Breach rates are not expected to change from current levels, so impacts on the courts would be as a result of an increase in the volume of short term closures and any subsequent increase in breaches. There would be no impact on the courts above the 'do nothing' option as a result of our changes to the longer term closures.
- 87) **Crown Prosecution Service (CPS):** The CPS would only be involved on breach of a closure power. We do not know the breach rates for these orders but do not expect breach rates to change from current levels. Any additional cost to the CPS would be as a result of an increase in the volume of short-term orders issued leading to more breach hearings. There are likely to be no additional costs as a result of changes to the longer term closures.
- 88) **Legal Services Commission:** As there would be a custodial sentence available on breach of both closure orders, and as an order would close an individual's property, an individual could be entitled to legal aid. So, any increase in the numbers of orders or subsequent increase in breaches could have an impact on legal aid. As this change is predominantly a merger of existing powers we would not expect any change in the proportion of breach hearings where the defendant is eligible for legal aid. Nonetheless, if there is an increase in breach cases, then there could be an impact on legal aid.
- 89) **HM Prison Service:** As this change is predominantly a merger of existing powers we would not expect any additional costs to HM Prisons unless the number of closure powers used increased. As MoJ data suggest that most breaches of current closure powers result in a fine or other disposal⁴⁹, additional costs resulting from this change are thought to be minimal.
- 90) **Businesses (including civil society organisations) and individuals:** Any additional costs to individuals would result from their properties were closed temporarily, Additional businesses costs would only result from the inclusion of premises other than licensed premises (e.g. a non-licensed club) in the closures power. Business costs would be lost revenue if they were temporarily closed. Although, this lost revenue could be redistributed to other businesses in the area as consumers visit premises that are not affected. Otherwise, costs would only be as a result of an increase in the use of the shorter term closure power with respect to the baseline and only if anti-social behaviour were likely to occur (rather than had occurred). The additional costs to individuals or businesses are likely to be minimal as practitioners expect few additional orders to be issued.
- 91) Recent discussions with local authorities and business groups have suggested that the use of the short-term closure order on non-licensed premises is rare, although we do not have centrally collected data to support this. Businesses have told us that they do not expect the changes to closure powers to be an issue.
- 92) If anti-social behaviour had already occurred, there would be no additional cost to any business associated with the new closure order. The habitual resident, owner or landlord would still be able to enter a property subject to a closure for less than 48 hours.

Benefits

- 93) We have not been able to quantify any of the benefits relating to the proposals. This is because of the lack of centrally collected data and foresight of how the new powers will be used. However, we have attempted to identify non-quantifiable benefits below.

Non-quantifiable benefits

⁴⁸ Based on MoJ convictions data for 2011.

⁴⁹ MoJ data for 2011.

- 94) **Police and Local Authorities:** Streamlining the toolkit will make it easier for practitioners to use, enabling them to respond effectively to a range of problems facing the communities they serve.
- 95) **HM Courts and Tribunal Service:** Streamlining the existing closure powers may reduce the likelihood of challenge, as at present having very similar, but subtly different tools to tackle place-related anti-social behaviour can lead to increased challenge in court. For example, when a Premises Closure Order is used there can sometimes be confusion with the caselaw on Crack House Closure Orders as the statutes are very similar in structure and terminology. However, any such impact is expected to be small.
- 96) **Businesses (including civil society organisations), victims and communities:** Closure orders provide a way to safeguard and protect the local community, including local businesses, and also to further encourage people to accept offers of support. Analysis of perception and experiences highlights the emotional distress caused by living near nuisance neighbours. Ninety-six percent of those suffering from noisy neighbours reported a range of emotional reactions including annoyance, frustration, anger and worry but a third (32 per cent) reported more serious emotional impacts such as: shock, fear, stress, depression, anxiety or panic attacks and crying. Over a quarter even considered moving away from the area⁵⁰ which would also have a negative those communities. The use of the closure powers can send a positive signal to businesses, victims and communities that anti-social behaviour will be tackled.
- 97) The British Crime Survey (BCS) also shows that it is people living within hard pressed areas and “council estates” who perceive the highest levels of anti-social behaviour.⁵¹ Dealing with anti-social behaviour by closing problem premises can have a negative impact on people’s quality of life, improve the local area and will bring benefits to businesses by dealing with anti-social premises that drive customers away.

Risks

- 98) This power is essentially a merger of existing powers and we know of no particular problems which have arisen. The risk which was raised when Premises Closure Orders were implemented was that innocent vulnerable people could be made homeless but the guidance provides advice to mitigate this and we would seek to replicate that to ensure adequate safeguards.
- 99) There is a risk that there may be an increase in volumes which would increase the number of cases going to the magistrates’ court. However, we know from discussions with court staff and practitioners that crack house closure orders require only short court hearings (20 minutes to a few hours). There is a similar picture in Scotland. We do not have time estimates for the time taken for premises closure orders, but expect this to be similar. S161 closure notices and noisy premises closure notices are not dealt with in court. So, even if there were a small increase in volumes, this would not have a large impact on court times.
- 100) There is a risk that there could be an increase in breach cases which would increase the costs to HM Courts and Tribunal Service, Crown Prosecution Service, and HM Prison Service.

Community Empowerment

⁵⁰ “*Perceptions and Experience of anti-social behaviour: findings from the 2004-2005 British Crime Survey*”. Anna Upson. OLR 21/06, October 2006.

⁵¹ “*Perceptions and Experience of anti-social behaviour: findings from the 2004-2005 British Crime Survey*”. Anna Upson. OLR 21/06, October 2006. <http://library.npia.police.uk/docs/hordsolr/rdsolr2106.pdf>

101) There are some current mechanisms which communities can use to complain about poor service by agencies (e.g. the members of the Community Safety Partnership⁵²) but all of those mechanisms are focused on one individual agency. For instance:

- i) complaints against a council's response to anti-social behaviour can be referred to the Local Government Ombudsman;
- ii) registered providers of social housing can have their actions referred to the Housing Ombudsman; and
- iii) the Independent Police Complaints Commission deals with complaints about how the police have responded to anti-social behaviour.

102) There are also some ways for local communities to raise issues with their local councils, for example through the Councillor Call for Action (CCfA). This enables members of the community to ask for discussions at local council scrutiny committees on issues where local problems have arisen and where other methods of resolution have been exhausted. However regulations state that issues should be excluded from CCfA when they relate to a complaints process, so this cannot be used to deal with specific complaints or issues about e.g. an incident of anti-social behaviour which are currently being investigated through the local authorities complaints process hasn't been dealt with.

Proposal D: Introduce a community trigger

Transition Costs

103) Local partnerships will need to establish a mechanism for local people to activate the community trigger. This could result in some minimal transitional costs involved including setting up a telephone line, e-mail inboxes, or adding a page to the Community Safety Partnership website. These have not been quantified here as, in most cases, we would anticipate relevant authorities using existing channels of communication. We are trialling the community trigger in a number of leading areas⁵³ in advance of legislation in order to test non-bureaucratic and low-cost ways of implementing the trigger. We will use the information from the trials to inform our guidance. There may be cost associated with adapting IT systems to enable information-sharing between agencies, although this should be in place already and not just for the community trigger. It is intended that the community trigger will use existing processes such as multi-agency risk assessment meetings.

104) There will be some transition costs for registered providers of social housing as they will now be invited to work with local partners in establishing how the community trigger will work in their area. While in many areas, these relationships already exist⁵⁴, we have assumed for this impact assessment that, as a worst case scenario, all staff working on anti-social behaviour in registered providers of social housing will be required to spend a total of eight hours on this process. HouseMark data has calculated that the annual cost of a WTE in this sector is £31,073 resulting in a day rate of approximately £130.13. This suggests a worst case transition cost of **£0.2m for private suppliers** of social housing and **£0.1m for public sector providers**.

Costs

105) **Registered providers of social housing:** There would be a cost to a landlord who was co-opted onto the group in attending meetings and signing up to the standards in terms of responses to complaints. However, this cost is unlikely to be significant as social landlords already take a lead on tackling anti-social behaviour. For example, the *Respect Charter: the anti-social behaviour charter for*

⁵² The police, local authority, police authorities, fire service, probation and health (currently the Primary Care Trust)

⁵³ Trials are underway in Manchester, Brighton and Hove, West Lindsey (Lincolnshire) and the London Borough of Richmond. A report detailing the findings of these trials will be published alongside the bill.

⁵⁴ HouseMark data from 2009 suggests that 93 per cent of ASB survey respondents (people or organisations in both the private and public sectors with a particular interest in tackling ASB) were already in one or more Crime and Disorder Reduction Partnerships (or equivalent)

housing, sets out service standards for landlords in dealing with anti-social behaviour.⁵⁵ So far over 250 social landlords covering all regions in England and Wales have signed up to the revised sector-led Charter as a public commitment to preventing and tackling anti-social behaviour. This includes some of the largest landlords in the country, including Peabody, A2 Dominion, the Guinness Partnership and Family Mosaic.⁵⁶

106) Meetings to discuss cases of anti-social behaviour are run regularly by local authorities. Most are run weekly or fortnightly and the Trigger trial areas have not sought to develop a more frequent forum to deal with cases. As such, it is unlikely that registered providers of social housing would have to give up more than half a day to attend these forums each week. A worst case scenario would see every person employed by a registered provider of social housing in England and Wales to deal with anti-social behaviour giving up half a day of their time (approximately £70) once a week. Where these costs fall on local authority providers, we would expect them to continue to work with their relevant councils. Where providers are wholly in the private sector, the cost could be as high as £8.0m per annum in opportunity costs. However, in reality, landlords need only send a representative to attend meetings where they are required or where cases are complicated. Unpublished data provided by HouseMark suggested that of a survey conducted in 2009 of registered social landlords in the private sector, 92 percent of the 127 who replied stated that they already attended these forums when required. Assuming the other eight per cent are now required also to attend these meetings, the additional extra cost of attending forums is expected to be less **than £0.6 million each year.**

Non-quantifiable costs

107) **Volumes:** We are not able to predict the number of complaints made via the community trigger. Little information is available regarding repeat complaints to the police. In the year ending December 2012, 2.3 million anti-social behaviour incidents were reported to the police.⁵⁷ The HMIC report *Policing Anti-Social Behaviour: the Public Perspective* suggested that, on average, 68 per cent of callers reporting anti-social behaviour to the police in 2009 called more than once, with 28 per cent calling more than 5 times. The majority of repeat callers (66 per cent) stated that these calls were to report the same or related problems.

108) **Costs:** Actions resulting from members of the public using the trigger as these are likely to vary considerably with each complaint. Time will be required from all agencies (local authorities, police, registered social landlords) involved to review previous reports/actions, and to undertake any further actions required as a result. It is likely that some police and other agency resource will be required to carry out a response to the trigger but without knowing what the response is likely to be it is not possible to quantify the impact of the community trigger on agencies' resources.

109) **Local authorities, police and health:** Local authorities, the police and health professionals will have to work together as required when the community trigger is activated. However, it is likely that there will be minimal additional costs for these agencies as they already work together on Community Safety Partnerships and other forums for dealing with anti-social behaviour and crime. Early indications for trigger trial areas also suggest that current forums are sufficient to deal with activated triggers.

110) **Private registered providers of social housing:** There may also be a cost to landlords if different local authorities established very different processes and procedures in their local areas to manage the trigger. We would mitigate this risk by giving landlords the right to be part of the process of drawing up those procedures, so that they could ensure they could influence how the process was established. However, we have assumed that all staff involved in dealing with anti-social behaviour at

⁵⁵ <http://www.cih.org/RespectCharter>

⁵⁶ http://www.cih.org/resources/PDF/Marketing%20PDFs/Respect_Currentsignatories_18Oct2011.pdf

⁵⁷ *Crime in England and Wales*, Quarterly Release, December 2012

registered providers of social housing spend a day getting to grips with processes and procedures locally so these costs have already been factored into the worst case scenario.

- 111) **HM Courts and Tribunal Service:** There would be no direct impacts on the courts as a result of the community trigger. This is because the trigger would not require a criminal justice response to problems, so many of the issues could still be dealt with informally and out of court, for example through mediation or restorative justice.
- 112) **Crown Prosecution Service:** As for HMCTS there would be no direct impact on the CPS as a result of the operation of the community trigger. However, the trigger may lead to additional orders being applied for (such as criminal behaviour orders which are handled by the CPS) and/or issued (which, if breached, would be prosecuted by the CPS), which could have an impact on the CPS.
- 113) **Businesses (including civil society organisations):** There are likely to be minimal costs to business as a result of implementing this proposal for the following reasons.
- Businesses can choose to use the trigger, which is likely to result in a net benefit for the business concerned. If the benefit of using the trigger did not outweigh the cost of doing so, it is highly unlikely that any businesses would activate the trigger.
 - Businesses can choose to respond to any consultations resulting from use of the trigger, which would incur a small opportunity cost, but we would expect to be outweighed by the benefits from responding.⁵⁸
 - If the trigger is used against businesses, this is unlikely to be the first action by local authorities to tackle the anti-social behaviour caused by that business. Use of the trigger in this case should enable mediation between the parties concerned to resolve any continuing problems. Again, this should only involve minimal additional costs for businesses and improved community relations could also bring additional benefits.
 - Where close relationships have been built up by local businesses with local agencies, this may still provide the most effective course of action in any of these cases outlined above resulting in minimal additional costs for business.
- 114) Larger businesses operating across the whole country may incur costs if different local authorities established very different processes and procedures in their local areas to manage the trigger. However, only local premises will need to be aware of local trigger thresholds and processes, as they do not relate to the operation of the business across the country. Local authorities will be required to publicise their criteria and to have a single point of contact to report issues to further minimising any costs to local retailers and outlets. However, we have assumed that as part of the transition costs outlined above, business would find out what the trigger threshold was in their area. This cost has not been duplicated here.
- 115) Concerns had initially been raised that the community trigger could result in coordinated action against particular businesses where local communities or individual wished to see direct action taken by local agencies. However, this is unlikely and there are safeguards included in the proposal which ensure that vexatious activations will not result in additional action. We would continue to expect local agencies to take all reports of anti-social behaviour seriously and so deal with the first report effectively and proportionately – normally through informal approaches. This is currently what is expected of local agencies and will not change with the implementation of the community trigger. We would, however, expect subsequent reports to be dealt with in the same timely manner. As such, the level at which the threshold is set, or the community trigger itself, should not impact negatively on businesses.

Non-quantifiable benefits

- 116) **Victims of anti-social behaviour:** The community trigger will have two key benefits.

⁵⁸ If this was not the case, businesses would be unlikely to respond to the consultation in the first place.

- i) It will give vulnerable victims of anti-social behaviour and their carers a way to force agencies to take problems seriously; and
- ii) It will give communities more power to shape the way the police and other agencies respond to the issues that matter in their area.

117) This should improve service standards in local areas and provide redress for communities, for example by ensuring that a series of seemingly ‘low level’ incidents which are having an impact on communities, or individuals within a community, cannot be ignored by agencies. It is not possible to quantify this or the associated benefits with reduced offending levels and improved victim satisfaction.

118) **Businesses (including civil society organisations):** The Association of Convenience Stores was strongly supportive of the community trigger and stated in their consultation response that *“Businesses must be extended the same allowances under the community trigger as individuals.”*⁵⁹ They saw it as having a number of benefits in terms of the concerns of businesses being taken seriously by local agencies, and action being taken more quickly to stop anti-social behaviour against businesses. These benefits are likely to outweigh any minor costs to businesses in getting up to speed with how the trigger operated in their local area.

119) This was confirmed during our recent engagement with front line businesses who suggested the community trigger could be *“an enabler for business”* and could *“give retailers a voice”* when it came to dealing with anti-social behaviour in their area. Some also acknowledged that the ability to set thresholds locally, meant due regard could be given to the issue of ‘urban v rural’ impacts. Some small, rural retailers felt that the impact of a single incidence of anti-social behaviour on them was larger than one on a larger, national retailer in a town centre. Through the utilisation of Community Harm Statements⁶⁰, and the ability to set the threshold at a level which suits local people, these concerns could be addressed.

Risks

120) During the consultation, risks were raised about our proposals duplicating existing complaints mechanisms and diverting resources away from high risk victims towards the ‘worried well’. Final proposals mitigate these risks by setting high level duties in legislation, and giving local areas the freedom to ensure arrangements match local priorities.

121) We are also trialling the community trigger in a number of local areas to test out how the high level duty could work in practice, to inform future guidance.

122) There is also a risk that allowing local areas to set their own procedures may increase costs to private registered providers of social housing. We are mitigating this risk through giving landlords the right to be involved in working with the police, local authorities and health in setting up the trigger, and also through the trials, as these will provide an opportunity to establish which processes are most effective. However, we have costed the possible impact of a worst case scenario.

Overall net impact

123) In summary, the overall net impacts of the policy (broken down by the main affected organisations) are presented in Table E.1.

Table E.1 Net impacts on affected groups

Affected group	Costs (in addition to the do nothing)	Benefits (in addition to the do
----------------	---------------------------------------	---------------------------------

⁵⁹ Comments made by individual retailers at the Association of Convenience Stores Annual Crime Prevention Conference on 6 September 2012.

⁶⁰ Community Harm Statements make it easier to demonstrate the harm caused to victims and communities by anti-social behaviour in court during civil proceedings. Community Impact Statements are currently being developed for criminal proceedings.

	option)	nothing option)
Local authorities	<ul style="list-style-type: none"> • There would be transition costs in moving to the new system, including training costs. • Costs associated with any increase in the number of orders issued (thought to be small as the number of incidents of anti-social behaviour are not expected to increase) 	<ul style="list-style-type: none"> • Overall there would be a simpler toolkit that is easier to use. • More agencies having access to community protection notices will lessen the burden on local authorities. • Streamlining the process of applying for public space protection orders will result in opportunity savings. • The community trigger would help ensure a better service to their local communities and to victims of anti-social behaviour, and bring partners together to solve problems
Private registered providers of social housing	<ul style="list-style-type: none"> • There may be a cost for landlords if local authorities adopted very different processes for the community trigger in different areas. • There would be training costs for landlords if they wanted to use the new community protection notice and opportunity costs in administering the notices when issued. 	<ul style="list-style-type: none"> • Overall there would be a simpler toolkit that is easier to use. • Landlords would be able to have access to the community protection notice if they requested it. • The public space protection order will enable landlords to ask local authorities to place restrictions on behaviour on private land, which would help them prevent anti-social behaviour on their estates (e.g. by banning skateboarding) • The community trigger would help ensure a better service to tenants, and bring partners together to solve problems. • Wherever RSLs opt-in on the use of a power, it is assumed that the benefits of doing so would outweigh the costs. • ASB cost social landlords £270m in 2011.⁶¹ Implementing option 2 should help to reduce these costs.
The police	<ul style="list-style-type: none"> • There may be a cost for the police if local authorities within the force area adopted very different processes for the community trigger. • There would be training costs for the police if they wanted to use the new community protection notice. • There would be (opportunity) costs to administering various notices and orders, as well as any additional involvement in breaches etc from increased volumes. 	<ul style="list-style-type: none"> • Overall there would be a simpler toolkit that is easier to use. • The community trigger would help ensure a better service to their local communities and to victims of anti-social behaviour, and bring partners together to solve problems.
Businesses	<ul style="list-style-type: none"> • There would be a cost to the small number of businesses who currently choose not to deal with graffiti on their premises. • There may be a cost to business as a 	<ul style="list-style-type: none"> • Dealing with environmental anti-social behaviour would improve the safety and security of a local area; ensuring individuals feel safer going to that area and reducing crime. This could

⁶¹ HouseMark data for 2011.

	<p>result of an increase in shorter term closure orders. However this would only be the case is a very small number of cases where a business was not acting under licence and where anti-social behaviour had not yet occurred, so any closure would be preventative.</p>	<p>increase footfall and money spent in shops.</p> <ul style="list-style-type: none"> • The public space protection order would enable relevant businesses (e.g. the owner of a shopping centre) to ask local authorities to place restrictions on behaviour on their land, which would help them prevent anti-social behaviour. • The community trigger would be a way for businesses to ensure that their complaints were taken seriously by local agencies, and was strongly supported by business stakeholders who responded to the consultation. • ASB cost businesses £9.8 billion in 2011. Implementing option 2 should help to reduce these costs.
HM Courts and Tribunal Service	<ul style="list-style-type: none"> • The only costs would result from an increase in breach hearings of community protection notices and PSPOs and closure powers (from increased volumes issued and not necessarily a change in breach rates) • There may be an increase in the number of shorter term closure powers issued, which would have a small impact on the courts. • There is no expected impact on the Courts as a result of implementing the community trigger. 	<ul style="list-style-type: none"> • Overall there would be a simpler toolkit that is easier to use, which would minimise mistakes in preparations of court bundles etc, making cases quicker and more efficient.
Crown Prosecution Service	<ul style="list-style-type: none"> • As for HMCTS, the only costs would be an increase in volumes of notices/orders leading to an increase in numbers of breaches (although not necessarily a change in breach rates) • There is a potential impact on the CPS as a result of implementing the community trigger, if it results in more requests for criminal behaviour orders (which are applied for by the CPS), or other orders, the breach of which are prosecuted by the CPS. 	<ul style="list-style-type: none"> • No additional benefits in comparison to the 'do nothing' option
Legal Services Commission	<ul style="list-style-type: none"> • An individual could be entitled to legal aid for a closure power so any increase in the numbers of orders or subsequent increase in breaches could have an impact. 	<ul style="list-style-type: none"> • No additional benefits in comparison to the 'do nothing' option
HM Prison Service	<ul style="list-style-type: none"> • There is likely to be minimal change from the 'do nothing' option as MoJ data suggest that most breaches of current powers result in a fine or other disposal. 	<ul style="list-style-type: none"> • No additional benefits in comparison to the 'do nothing' option.
Victims of anti-social behaviour	<ul style="list-style-type: none"> • No additional costs in comparison to the 'do nothing' option 	<ul style="list-style-type: none"> • The community trigger would be a way for victims to ensure that their

complaints were taken seriously by local agencies, and was strongly supported by victims who attended the victims' roundtable meeting.

- Overall there would be a simpler toolkit that is easier for local agencies to use, which would make it easier for problems to be solved quickly and effectively.

124) Table E.2 present the costs and benefits identified and quantified in this appraisal section.

Table E.2 Net impact of the proposals

Costs			£20.5
<u>One-off costs</u>			
- Police	Cost of training courses (fees and opportunity cost of attending – paragraph 29i) and buying noise equipment (para 30i).	-	£8.4
- Local authorities	Cost of training courses (fees and opportunity costs of attending – para 29ii).	-	£0.9
- RSLs (private and public sector providers)	Costs of training courses (fees and opportunity costs of attending – paras 29iii, iv and 104) and new partnerships.	-	£1.5
- Business	Reading guidance on new powers and Community Trigger processes (para 29v).	-	£1.0
<u>Annual costs</u>			
- RSLs (private sector only)	Attending additional meetings with CSPs (para 106).	£0.6	£5.6
- Business	Additional costs of CPN – costs of removing graffiti (para 48).	£0.4	£3.2
Benefits			£2.2
<u>Annual benefits</u>			
- Local authorities	Savings from a streamlined process for PSPO order (para 60).	£0.3	£2.2
Net benefit (£m)			-£0.8 -£18.4

Note: figures may not sum due to rounding.

One-In-Two-Out (OITO)

125) The impact assessment has identified some costs and benefits to businesses. This policy is within the scope of OITO and has been assessed as an IN with a small net cost of approximately £1.0 million annually.

126) There are three areas where there could be a small impact on business in contrast to the 'do nothing' option. These are:

- i) community protection notices could be issued to businesses not covered under existing legislation to force them to deal with persistent graffiti. Costs have been estimated in Section E;

- ii) short-term (less than 48 hours) use of the closure power will apply to non-licensed premises for the first time where it is felt that anti-social behaviour could occur; and
- iii) the community trigger will place a duty on registered providers of social housing to work with local partners when activated. Limited costs have been estimated in Section E.

127) However, many businesses already choose to deal with graffiti on their properties as they assess that the benefit outweighs the costs, so for these businesses there would be no impact. In addition, dealing with environmental anti-social behaviour would directly benefit specific businesses being affected by anti-social behaviour through, for example, loss of trade because of safety concerns.

128) Any costs to individual businesses would be minimised through measures in the legislation, for example, ensuring that notices could not be issued for a one-off incident, and that local authorities could not charge a premium for any work carried out to clear up litter or graffiti.

129) The community trigger would lead to net benefits for businesses as it would be a way for businesses to ensure that their complaints were taken seriously by local agencies. The community trigger was strongly supported by business stakeholders who responded to the consultation. The table above outlines in more detail the net effect for businesses.

F. Risks

130) The specific risks associated with each part of the policy are outlined under the relevant heading in section E above.

131) There is also a risk posed by the lack of nationally available data on these issues, as they are local crime and anti-social behaviour matters which should be dealt with at a local level. This has made providing robust estimates of costs difficult. To mitigate this risk we have used nationally available data where possible and also gone out to anti-social behaviour practitioners to source locally available data to inform our assessment where possible.

G. Enforcement

132) Enforcement of this policy will be by the local authorities, police and the courts. 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

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

Option	Costs	Benefits
2	£8.7m (PV over 10 years)	£2.2m (PV over 10 years)
	Quantified costs to RSLs of attending meetings to deal with Community Trigger incidents and costs to businesses of complying with graffiti-related CPNs. Other non-quantified costs to local authorities, police, HM Courts and Tribunal Service, private registered providers of social housing, legal services commission, and Crown	Quantified benefits to local authorities due to savings from implementing the PSPO Other non-quantified benefits to businesses, local authorities, police, private registered providers of social housing, victims of anti-social behaviour as a result of reduced anti-social behaviour and improved service provision.

	Prosecution Service largely as a result of a potential increase in volumes of notices and the broader scope of powers.	

134) For the reasons set out in sections E and F above, our preferred option is option 2. This option best meets our stated aims of reducing the size of the toolkit, shifting the emphasis from a specific power for every issue, reducing bureaucracy and cost associated with the more formal powers to tackle anti-social behaviour and giving victims and communities more power to shape the way the police and other agencies respond to anti-social behaviour.

I. Implementation

135) 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.

136) 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

137) In line with localism, we will encourage local evaluation and publication of data on the use of the new orders. Central data collection would not be appropriate and would add additional burdens onto local areas. By publishing data locally, local communities can hold their agencies to account through their Police and Crime Commissioner if they feel that issues aren't being tackled effectively.

138) We will require areas to publish data on how often the community trigger has been used and the outcomes in order to aid transparency. 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. We will use this local data to inform our post-legislative scrutiny 3-5 years after Royal Assent.⁶²

139) 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

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

141) As the legislation goes through Parliament, and during the process of pre-legislative scrutiny, this will provide an opportunity for external organisations to further scrutinise and provide feedback on the proposals.

L. Specific Impact Tests

⁶² As outlined on the Cabinet Office website: http://interim.cabinetoffice.gov.uk/making-legislation-guide/post-legislative_scrutiny.aspx

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 relevant factors in anti-social behaviour policy and the policy has been developed to bear this in mind. It is to be noted that anti-social behaviour can and does result from harassment based on identity – such as age, gender, gender identity, race, religion and sexual orientation.

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 The small firms impacts of these proposals have been outlined in the main body of this impact assessment

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.