

<b>Title: Serious Crime Bill – Improvements to the Serious Crime Prevention Order</b>  <b>IA No:</b>  <b>Lead department or agency: Home Office</b>  <b>Other departments or agencies:</b> Crown Prosecution Service, Attorney General's Office, Ministry of Justice, National Crime Agency, police forces.	<b>Impact Assessment (IA)</b>		
	Date: 23/05/14		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
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<b>Summary: Intervention and Options</b>	<b>RPC Opinion: RPC Opinion Status</b>
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as In/Out/zero net cost
na	na	£0	No	In/Out/zero net cost

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

Serious and organised crime is a threat to our national security and costs the UK more than £24 billion a year. Preventative civil orders are an important tool for tackling the threat, but they have a number of problems that need to be addressed.

1. There are gaps in the list of indicative offences that guide the use of serious crime prevention order (SCPOs) by courts.
2. The courts have a limited ability to continue SCPOs even after a person has breached one.
3. The financial reporting order (FRO) is under used as a means of preventing re-offending.

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

The policy objectives are to:

- Ensure that effective civil orders are available and are used to deal with the threat from organised crime as committed to by the cross-Government Serious and Organised Crime Strategy (October, 2013).
- Reduce the number of individuals involved in organised crime in the UK (estimated to be 37,000 in October 2013),

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

1. Do nothing
2. Make improvements to the SCPO and FRO.
  - a) Add offences relating to firearms possession, cyber crime, and the cultivation of cannabis plants to the list of trigger offences for imposing an SCPO.
  - b) Allow the Crown Court to tackle the continuing involvement in serious crime of those prosecuted for breach of an SCPO by replacing existing orders that are due to expire.
  - c) Consolidation of the FRO into the SCPO. This will address the problems of the FRO, and encourage greater use of financial reporting requirements in 'post conviction' orders.

<b>Will the policy be reviewed? It will be reviewed. If applicable, set review date: 3-5 years after implementation</b>					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: n/a		Non-traded: n/a		

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

Signed by the responsible SELECT SIGNATORY: Karen Bradley Date: 3/6/14

# Summary: Analysis & Evidence

# Policy Option 2

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 12/13	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: na	High: na	Best Estimate: na

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0.02	0.20
High	0	0.28	2.42
Best Estimate	0	0.15	1.31

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

- Police, NCA, CPS, other law enforcement agencies: Making more SCPO applications and investigating / prosecuting more offences for breach of the orders.
- HMCTS, Legal Aid Agency, NOMS: SCPO applications and prosecutions for breaching orders will be heard in court, offenders may have legal aid, and those convicted of breaches could be imprisoned, or given probation.

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

N/A

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

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

N/A

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

- Expanding SCPO trigger offences makes it easier to prevent serious crime.
- Easier for courts to prevent continued involvement in serious crime following prosecution for breach of an SCPO or another serious offence.
- Consolidating the FRO and SCPO will encourage greater use of financial reporting requirements.

#### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

- This assessment is concerned only with the increase in the use of the SCPO above the current baseline. For the purpose of estimating costs, we have assumed that all applications are successful.
- We are assuming that the additional applications resulting from the change in legislation will be made to the Crown Court.

### BUSINESS ASSESSMENT (Option 1)

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

# Evidence Base

## Background

Serious and organised crime is a threat to our national security and costs the UK more than £24 billion a year. We estimate there are around 5,500 active organised crime groups, comprising around 37,000 people (all data from the Serious and Organised Crime Strategy, 2013). Organised crime groups can intimidate, corrupt and deprive people of their security, prosperity and identity. They can have a corrosive impact on communities and a devastating impact on victims. In the Serious and Organised Crime Strategy, the Government made a commitment to encourage the use of civil orders.

### *Serious Crime Prevention Orders (SCPO)*

The SCPO was introduced by Part 1 of the Serious Crime Act 2007. It is a court order that is used to protect the public by preventing, restricting or disrupting a person's involvement in serious crime. The SCPO is a civil order; it is not the same as being investigated or convicted for a crime. Nor is the SCPO a punishment and it does not result in a criminal record. An SCPO can prevent involvement in serious crime by imposing various conditions on a person; for example, restricting who he/she can associate with, restricting his or her travel, or placing an obligation to report his or her financial affairs to the police. These conditions can relate to the enforcement of unpaid confiscation orders.

The Crown Prosecution Service (CPS) or Serious Fraud Office (SFO) make applications to a court for an SCPO to be imposed. The court hearing the case decides whether an SCPO is necessary. To help the court decide whether the crime is 'serious' enough, there is an indicative list of 'serious offences' in Schedule 1 to the Serious Crime Act 2007. An order can last for up to five years, and breaking its conditions ('breach') is a criminal offence subject to a maximum penalty of five years in prison.

Most SCPOs are currently imposed on people who have been convicted of a serious crime in the Crown Court. The prosecution makes the application once sentencing has taken place. These orders are referred to as 'post conviction' SCPOs in this document. As at 31 March 2014, a total of 181 'post conviction' SCPOs have been obtained by the National Crime Agency (NCA) and its predecessor the Serious and Organised Crime Agency (SOCA)<sup>1</sup>. A further 136 have been obtained by police forces or other agencies and notified to the NCA/SOCA. There has also been one 'stand alone' SCPO imposed by the High Court outside of criminal proceedings. The law enforcement agencies who use SCPOs, notably the NCA and HMRC, find them to be a very effective tool against serious and organised crime.

### *Financial Reporting Orders*

The FRO was introduced by Chapter 3 of Part 2 of the Serious Crime and Police Act 2005. In many ways the FRO is a precursor to the SCPO discussed above. It is also a civil order, but can only be imposed if the person has just been convicted of a qualifying offence (i.e. it is a 'post conviction' order). The large majority of qualifying offences overlap those of the SCPO; fraud, money laundering, drug trafficking, and corruption or bribery etc. An FRO can oblige a person to make regular reports of his or her personal finances to the police (bank accounts, assets etc). This makes it easier for the police to identify if the person is offending again. For example, sudden large and unexplained deposits into a bank account could be an indicator of continued involvement in crime. Breach of an FRO is also a criminal offence and is punishable by up to six months in prison.

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<sup>1</sup> This number may not be the complete picture of other law enforcement SCPOs secured, as some may not have been reported to NCA/SOCA.

## **Problems under consideration:**

In consultation with law enforcement agencies, we have identified a number of weaknesses with the SCPO and FRO. Addressing these problems will improve the impact of the orders on serious and organised crime.

### **Problem 1: Gaps in the list of indicative offences for SCPOs**

There is a list of trigger offences to help courts decide what constitutes a serious crime when considering the imposition of an SCPO (Schedule 1 to the Serious Crime Act 2007). This list is for the use of SCPOs in general, regardless of whether the application is for a 'stand alone' or 'post conviction' order. The list covers criminality such as fraud, money laundering, drug trafficking, and corruption or bribery. Just because an offence is on the list does not mean an SCPO will automatically be imposed, nor does absence from the list mean that an order cannot be made. However, it is still important that the list is kept up to date to ensure the courts are given clear and unambiguous guidance. This list currently has some important gaps, particularly with relation to firearms offences and cyber crime.

### **Problem 2: Breach of an SCPO**

Breach of an SCPO is a criminal offence that can be punished with up to five years in prison. Since the conditions of an order are designed to prevent activity linked to serious crime, a breach can also be an indicator of continued involvement in serious and organised crime.

However, while the legislation allows an order to be varied by the Crown Court after a criminal conviction for its breach (for example, extending the duration of an order or adding further conditions), it is not possible for a new order to be imposed by the court dealing with the offence. Nor can a variation extend the duration of an existing order beyond a five year limit. So if a person is nearing the end of the five year limit of an existing SCPO, the court that convicts him or her for the breach cannot replace the SCPO to prevent continued involvement in serious crime.

### **Problem 3: Under use of the Financial Reporting Order**

The FRO can be imposed after a conviction for a qualifying offence to prevent future re-offending. The NCA estimates there are currently around 150 active FROs. This is substantially less than the original expectation of some 1,500 per year.

A feature of the FRO is that breach of an order is a summary only offence: this means it is only dealt with in the magistrates court. The maximum sentence is six months in prison. This is not consistent with offences relating to the breach of other civil orders - such as the SCPO or travel restriction order. The maximum sentence for breach of these other civil orders is for up to five years in prison.

The summary only status of the offence has a practical impact on the ability of law enforcement agencies to enforce FROs. A search warrant cannot be applied for to investigate a suspected breach. Also, an investigation cannot be pursued if the offence was committed more than six months previously - this is problematic for breach of a financial reporting order as it may take some time for the non-compliance to become apparent. The relatively modest sanctions available for breach are not a powerful deterrent for criminals who are likely to have already been convicted of a serious crime (the large majority of qualifying offences are recognised as serious crimes in Schedule 1 to the Serious Crime Act 2007). The cumulative effect of these problems is to discourage law enforcement agencies from pursuing FRO applications.

## **Rationale for intervention:**

Serious and organised crime is a threat to our national security and causes significant harm to our society. Government has a role in protecting its citizens and ensuring law enforcement agencies have the necessary powers to tackle the threat. Civil interventions to prevent serious crime are an effective and cost efficient complement to criminal investigation and prosecution.

### Policy objective:

The policy objectives are to:

- Reduce the number of individuals involved in organised crime in the UK (estimated to be 37,000 in October 2013).
- Ensure that effective civil orders are available and are used to deal with the threat from serious crime as committed to by the cross-Government Serious and Organised Crime Strategy (October, 2013).

### Description of options considered

Option 1: **Do nothing. Continue current arrangements under existing law.**

Option 2: **Legislate.**

**The preferred option is option 2, legislate.**

We will make a number of improvements to the existing legislation that will address each of the problems identified above. This is a devolved policy area and the changes dealt with in this Impact Assessment are concerned with England & Wales only<sup>2</sup>. In the Serious Crime Bill, the UK Government will also legislate on behalf of the Scottish Government to implement the SCPO in Scotland. The impact of this change is being assessed by the Scottish Government and is not covered in this document.

#### Improvement 1: Adding offences relating to firearms possession, cyber crime, and the cultivation of cannabis plants to the list of indicative offences for imposing an SCPO

There are a number of offences that should be added to the indicative list of serious offences in Schedule 1 to the Serious Crime Act.

While arms trafficking related offences are currently on the list, serious crimes relating to the possession of firearms are not. In spite of the potentially serious impact the crimes can have on individuals, businesses, and national infrastructure, computer hacking and cyber crime offences are not on the list. Finally, while offences relating to the production of illegal drugs are included on Schedule 1, the specific offence of the cultivation of cannabis plants is not.

While their current absence from Schedule 1 does not preclude a court imposing an SCPO to prevent the above crimes, addressing this gap will assist the courts and law enforcement agencies.

#### Improvement 2: Allowing the Crown Court to replace an SCPO following prosecution for breach

The Crown Court currently has the power to extend the duration of an existing SCPO up to the five year limit of an order, following criminal conviction for breach of an order. We propose to allow the Crown Court to replace an order in this situation – this will be of most value if the order is due to expire. This change will allow the court to prevent further involvement in serious crime.

If someone has been arrested for a serious offences or breach offence and an order is about to run out, the Crown Court will also be able to keep the order in place until the criminal proceedings have been concluded.

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<sup>2</sup> The changes will also extend to Northern Ireland.

### Improvement 3: Consolidation of the FRO into the SCPO

A limitation of the FRO is that, unlike other 'post conviction' civil orders, breaching the order is a summary only offence with a maximum prison sentence of six months. This is not consistent with comparable preventative civil orders. The operational experience of the NCA is that this limits the ability of law enforcement agencies to make sure people comply with the order, and discourages its use.

The SCPO was introduced after the FRO and there is overlap between the two civil orders. The large majority of FRO and SCPO qualifying offences are the same, they can both be used to impose financial reporting requirements, and they are both used 'post conviction.' However, breach of an SCPO is an either way offence (i.e. can be dealt with by a Magistrates or the Crown Court) and therefore does not have the drawbacks of the FRO. We therefore propose that the SCPO will in future be used instead, and the FRO legislation will be repealed.

This change will also simplify the landscape of preventative civil orders and reduce the administrative burden on the agencies who work on applications.

### Monetised and non-monetised costs and benefits

#### **Option 1: Do nothing**

There are no additional costs or benefits if there is no policy change.

#### **Option 2: Legislate**

#### Groups affected

Apart from the recipients of SCPOs, the main groups affected by the policies will be:

- The police, NCA, and other law enforcement agencies: we predict there will be an increase in the number of SCPO applications they develop and subsequently monitor / enforce.
- Crown Prosecution Service: an increase in the number of SCPO applications they make.
- Financial Conduct Authority (FCA), Department for Business, Innovation and Skills (BIS), and other prosecutors: these agencies will no longer be able to make FRO applications, but the CPS or SFO will make SCPO applications on their behalf.
- HM Courts and Tribunals Service (HMCTS): an increase in the number of SCPO applications is likely to increase the administrative burden on HMCTS.
- National Offender Management Service (NOMS): should there be an increase in breaches, there may be more offenders who will be managed by the prison and probation services.
- Legal Aid Agency: legal aid may be provided to defendants prosecuted for the breach of SCPOs.

## Monetised Costs

The policy changes are expected to lead to an increase in the number of 'post conviction' SCPOs being used. We assume there will also be a proportionate increase in the number of breaches that lead to a criminal prosecution. These increases will have a financial impact.

In year 1, we forecast an additional 10-30 Crown Court 'post conviction' SCPOs will be imposed<sup>3</sup>. Also including additional prosecutions and applications to replace existing SCPOs, the total estimated cost for year 1 is between £6,000 and £126,000. From year 2 onwards, we forecast an additional 40-80 Crown Court SCPOs. The estimated annual cost is £25,000 to £301,000. Table 1 below provide more detail. There is also further explanation of how we forecast the number of applications etc. and the calculations of 'unit costs.'

Table 1 – Year 1 estimate of additional SCPO costs (with lower and upper range)

Year 1	Increase in number		Cost £ (rounded to nearest £1,000)	
	Lower	Upper	Lower	Upper
<b>Policy Proposal</b>				
Crown Court				
1. Further 'indicative' offences	5	15	3,000	10,000
2. Replacing an SCPO upon breach	0	35	0	22,000
3. Consolidation of FRO and SCPO	5	15	3,000	10,000
Prosecutions for breach of an order	0	3	0	84,000
<b>TOTAL COST £</b>			<b>6,000</b>	<b>126,000</b>

Year 2 onwards	Increase in number		Cost £ (rounded to nearest £1,000)	
	Lower	Upper	Lower	Upper
<b>Policy Proposal</b>				
Crown Court orders				
2. Further 'indicative' offences	10	20	6,000	13,000
3. Replacing an SCPO upon breach	0	40	0	26,000
4. Consolidation of FRO and SCPO	30	60	19,000	38,000
Prosecutions for breach of an order	0	8	0	224,000
<b>TOTAL COST £</b>			<b>25,000</b>	<b>301,000</b>

<sup>3</sup> This figure does not include use of the new power to replace an existing SCPO as this would not add to the 'net' total of orders.

## Total Present Cost over a ten year period (discounted at 3.5%)

The best estimate in an average.

	Low Estimate (000s)	Best Estimate (000s)	High Estimate (000s)
Year 1	£6	£66	£126
Year 2	£24	£157	£291
Year 3	£23	£152	£281
Year 4	£23	£147	£271
Year 5	£22	£142	£262
Year 6	£21	£137	£253
Year 7	£20	£133	£245
Year 8	£20	£128	£237
Year 9	£19	£124	£229
Year 10	£18	£120	£221
<b>Average</b>	<b>£20</b>	<b>£131</b>	<b>£242</b>
<b>Total</b>	<b>£196</b>	<b>£1,306</b>	<b>£2,416</b>

### Estimating the volume of applications etc.

- We have based our estimate of the number of additional SCPOs that result from these policy changes on consultation with the National Policing Lead for Serious and Organised Crime, police forces, Regional Organised Crime Units, the NCA, and HMRC.
- It should be noted that this estimate in Table 1 are concerned only with the increase in the use of the SCPO above the current baseline. For the purpose of estimating costs, we have assumed that all applications are successful. We are also assuming that these will be made in the Crown Court.
- The estimated breach rate of SCPOs leading to criminal prosecution has been in the region of 3%. This has been calculated on the basis that there has been nine such prosecutions<sup>4</sup>, and assumes that 318 orders have been imposed (data provided by the NCA). For the purpose of estimating costs, in Table 1 we have assumed the breach rate leading to a prosecution will have an upper range of 10% and lower range of 0%. For example, the upper range estimate in year 1 is for a further 30 orders; so  $30 \times 10\% = 3$  additional prosecutions.
- The estimate for the use of the new power to replace an existing assumes that all prosecutions for a breach would result in such an application. However, this prosecution figure is relative to the total of the baseline (318) and the increase in the number of orders resulting from the policy changes discussed in this paper. So for the upper estimate in year 1, this will be:  $(318+30) \times 10\% = 35$  applications to extend the period of an order.
- The estimate for the increase in SCPOs resulting from the consolidation of the FRO only relates to the greater take up we anticipate because of the better powers that will become available to law enforcement agencies. So if there would have been (hypothetically) 25 FRO applications per year, these would be replaced by the same number of SCPO applications at a neutral cost, so this number is not included in Table 1.

<sup>4</sup> Data provided by the Ministry of Justice. Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that data have been extracted from large administrative data systems generated by the courts. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when this data are used.

## Estimating the unit costs of applications etc

### *'Post conviction' SCPOs*

- The estimated average unit cost for Crown Court applications is £640. This is on the basis that the cost of an average five hour sitting day for the Crown Court is approximately £1,600 (i.e. £320 per hour)<sup>5</sup>. The experience of the NCA is that SCPO hearings take up to two hours.
- The hearing length (and thus cost) for an application for a new or replacement order is estimated to be the same. In both situations the applicant still needs to demonstrate to the court that the order will protect the public. We have assumed that the SCPO hearing will not incur additional legal aid costs.<sup>6</sup>
- The additional costs for prosecutors and law enforcement agencies to develop applications will be minimal as most casework would be carried out as part of the main criminal prosecution that precedes the SCPO application. The resource needed to monitor SCPOs varies significantly and it is not possible to give an estimate of this cost.
- It should also be noted that the consolidation of the FRO into the SCPO will mean that prosecutors other than the CPS and SFO will be impacted. These prosecutors previously had the power to make FRO applications but cannot conduct SCPO applications: their applications will now be made by the CPS or SFO on their behalf. Consultation with stakeholders indicates that less than 10 FROs have been applied for to date by prosecutors other than the CPS and SFO, so we do not expect the impact of this change will be significant.

### *Prosecutions for breach of an SCPO*

- The estimated criminal justice system costs for dealing with a breach offence is between £3,000 and £28,000. This includes costs to the CPS, HMCTS, legal aid, prisons and probation. The lower bound assumes that all cases progress through a magistrates court, and the upper bound assumes all cases progress through the Crown Court. A full explanation of the assumptions made (and associated risks) is in Annex A.
- In Table 1, we assume all the cases in the upper range estimate for the number of prosecutions (for example, 8 in year 2) will incur the upper unit cost estimate (£28,000 each).

### Non-monetised Costs

N/A

### Monetised Benefits

N/A

### Non-monetised Benefits

- The measures will support delivery of the UK Serious and Organised Crime Strategy by encouraging the use of SCPOs to tackle the threat.
- It will be easier to obtain an SCPO to prevent involvement in serious crimes where the criminality is not currently on the list of indicative offences, such as firearms possession etc (Improvement 1).
- Allowing the Crown Court to replace an existing SCPO when dealing with an offence of breaching the order will address the behaviour of those who continue to be involved in serious crime (Improvement 2).
- Consolidating the FRO into the more effective SCPO will encourage greater use of financial reporting requirements in 'post conviction' situations (Improvement 3)
- Across the board, these measures will simplify the administration of SCPOs (and currently the FRO) and reduce the workload of the agencies involved.

<sup>5</sup> HMCTS Annual Report and Accounts 2012-13

<sup>6</sup> This assumption is based on SCPO application hearings taking place on the same day as sentencing. If the case is adjourned and went to another day then additional legal aid costs would be incurred.

## **Consultation**

A full public consultation will not be taken due to the tight time frame before the 4<sup>th</sup> session. However stakeholders have been consulted.

- Ministry of Justice
- Crown Prosecution Service
- Attorney General's Office
- HM Revenue and Customs
- Serious Fraud Office
- Whitehall Prosecutors Group
- National Policing Lead for Serious and Organised Crime
- Police forces
- National Crime Agency
- Regional Organised Crime Units

## **Summary and preferred option**

The proposed changes provide a coherent and robust package of improvements to the ability of law enforcement to disrupt serious and organised crime. We have developed incremental, measured improvements that are based on the practical experience of the police and other law enforcement agencies who use these orders. These policies are not about 'reinventing the wheel' or pursuing change for its own sake. While it has not been possible to provide 'monetised' estimates of benefits, we are confident that these will outweigh the costs of implementing the proposed changes. Their cumulative effect will be to enhance significantly the impact that we can have on the serious and organised crime threat

### *Implementation plan*

Subject to parliamentary approval, the Serious Crime Bill is expected to be enacted by March 2015; the provisions would be commenced by April 2016.

### *Monitoring*

The provisions of the Serious Crime Bill will be subject to post legislative review three to five years after Royal Assent.

**Annex A - Risks and Assumptions for calculating the cost of prosecuting breach of SCPOs**

Assumption	Risks/Limitations
<p>Progression of a case through the CJS (eg, proportion proceeded in the magistrates v. Crown courts, proportion sentenced to immediate custody):</p> <ul style="list-style-type: none"> <li>We calculate two scenarios by assuming in the lower bound that 100% of cases progress through the magistrates court, and in the upper bound that 100% progress through the Crown Court.</li> <li>We assume that 50% of convicted offenders will receive a custodial sentence.</li> </ul> <p>Source: MoJ internal analysis, 2013.</p>	<ul style="list-style-type: none"> <li>There is a risk that more/fewer offenders may be tried in the magistrates' courts or the Crown Courts.</li> <li>There is a risk that more/fewer offenders may be sentenced to custody.</li> </ul>
<p>ACSL given</p> <ul style="list-style-type: none"> <li>For both the lower and upper bound, we assume that the ACSL given is half of the maximum penalty available.</li> <li>We therefore assume offenders are given 3 months for cases tried in the MC and 2.5 years for cases tried in the CC</li> </ul> <p>Source: MoJ internal analysis, 2013.</p>	<ul style="list-style-type: none"> <li>There is a risk that the ACSL given will be longer or shorter.</li> </ul>
<p>CPS costs:</p> <p>The costs are assumed to be approximately £160 for cases tried in the magistrates court and £2,600 for cases tried in the Crown Court.</p> <p>The estimated Crown Court CPS costs consist of two broad categories, advocacy costs and Activity Based Costings (ABC), and the estimated magistrates court costs just of ABC. The primary purpose of the ABC model is resource distribution, and has several limitations (see risks). The costs reflect the different ABC and advocacy costs for guilty plea, cracked and effective trials.</p> <p>Source: MoJ internal analysis, 2013.</p>	<ul style="list-style-type: none"> <li>The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated. For further information about how CPS ABC costs are calculated please see the following CPS guidance (CPS, 2012): <a href="http://www.cps.gov.uk/publications/finance/abc_guide.pdf">http://www.cps.gov.uk/publications/finance/abc_guide.pdf</a>.</li> </ul>
<p>HMCTS costs:</p> <p>Magistrates Courts Costs</p> <p>To generate the costs by offence categories, HMCTS timings data for each offence group were applied to court costs per sitting day.</p>	<p>Timings data for offence categories:</p> <ul style="list-style-type: none"> <li>The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there</li> </ul>

Assumption	Risks/Limitations
<p>Magistrate's court costs are £1,200 per sitting day in 2012/13 prices. A sitting day is assumed to be 5 hours.</p> <p>Source: The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2012-13. HMCTS timings data from the Activity based costing (ABC) model, the Timeliness Analysis Report (TAR) data set and the costing process.</p>	<p>may be a difference in average hearing times as there is no timing available e.g. when a DJ(MC) sits.</p> <ul style="list-style-type: none"> <li>• Timings do not take into account associated admin time related with having a case in court. This could mean that costings are an underestimate. There is some information is available on admin time, however we have excluded it for simplicity.</li> <li>• The timings are collection of data from February 2009. Any difference in these timings could influence costings.</li> <li>• The data also excludes any adjournments (although the ABC model does), and is based on a case going through either one guilty plea trial (no trial) or one effective trial. However a combination of cracked, ineffective and effective trials could occur in the case route. As a result the costings could ultimately be underestimates.</li> <li>• Guilty plea proportions at the Initial hearing from Q2 in 2012 are used, based on the Time Analysis Report. As these can fluctuate, any changes in these proportions could influence court calculations (effective trials take longer in court than no trials (trials where there was a guilty plea at the initial hearing)).</li> </ul> <p>HMCTS average costs per sitting day:</p> <ul style="list-style-type: none"> <li>• HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.</li> </ul>
<p>HMCTS costs:</p> <p><b>Crown Courts Costs</b></p> <p>Timings data for types of case (eg, indictable only, triable either way) were applied to Crown court costs per sitting day. This was added to the cost of the initial hearing in the Magistrates, as all criminal cases start in the Magistrates courts. Crown Court cost is £1,600 per sitting day in 2012/13 prices, assuming a sitting day is 5 hours.</p>	<p>Timings data for types of cases:</p> <ul style="list-style-type: none"> <li>• The average time figures which provide the information for the timings do not include any down time. This would lead to an underestimate in the court costing.</li> <li>• Timings do not take into account associated admin time related with listing a case for court hearings. This could mean that costings are an underestimate.</li> <li>• The data which informed the timings</li> </ul>

Assumption	Risks/Limitations
<p>Source: The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2012-</p>	<p>data excludes cases where a bench warrant was issued, no plea recorded, indictment to lie on file, found unfit to plead, and other results.</p> <ul style="list-style-type: none"> <li>• Committals for sentence exclude committals after breach, 'bring backs' and deferred sentences.</li> </ul> <p>HMCTS average costs per sitting day:</p> <ul style="list-style-type: none"> <li>• HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.</li> </ul>
<p>Legal Aid costs: We assume an eligibility rate of 50% for cases in the magistrates' courts and 100% in the Crown Court. The average legal aid cost in the magistrates assumed was around £400, and £5,300 in the Crown Court (based on Crime Lower Report and Crime Higher Report, Legal Aid Agency).</p> <p>We use an average cost including all offence types from the dataset that includes both standard and non-standard fees to estimate the cost to the Legal Aid Agency.</p>	<ul style="list-style-type: none"> <li>• There is a risk that variance in the Legal Aid eligibility rate assumed for cases in the magistrates' courts would impact the costings.</li> <li>• Assuming 100% eligibility for Legal Aid in the Crown court carries several risks. Firstly, an individual may refuse legal aid. Secondly, an individual may contribute to legal aid costs. Lastly, the size of this contribution can vary. This could mean that the costings provided are a slight overestimate.</li> <li>• There is a risk that the cost could be higher for specific new offences where Legal Aid is paid under the more expensive non standard fee scheme.</li> </ul>
<p>Prison costs: We assume that only 50% of the given ACSL is served in custody. The cost per prison place is £28,000. Source: NOMS management accounts addendum (2012/13).</p>	<ul style="list-style-type: none"> <li>• The cost of additional prison places is also dependent on the existing prison population, as if there is spare capacity in terms of prison places then the marginal cost of accommodating more offenders will be low due to existing large fixed costs and low variable costs. Conversely, if the current prison population is running at or over capacity then marginal costs may be significantly higher as contingency measures will have to be found.</li> </ul>
<p>Probation costs:  We assume that 50% of a given custodial sentence of 12 months or more will be served</p>	<ul style="list-style-type: none"> <li>• Costs represent the national average fully apportioned cost based on delivery by 35 Probation Trusts in 2012/13.</li> </ul>

Assumption	Risks/Limitations
<p>on post-release licence.</p> <p>We also assume that independent probationary sentences consist of community orders and suspended sentence orders.</p> <p>Costs for probation and community sentences are approximately £2,600 per year in 2012/13 prices.</p> <p>The probation costs are based on national costs for community order/ suspended sentence order, found at NOMS, Probation Trust Unit Costs, Financial Year 2012-13. Source: MoJ internal analysis, 2013.</p>	<ul style="list-style-type: none"> <li>• Unit costs are calculated from the total fully apportioned cost of relevant services divided by starts in that year and do not consider which elements of cost are fixed and which will vary based on service volumes. Major changes to the volume, length or content of community sentences or the characteristics of the offender population could affect the unit cost.</li> <li>• The costs consist of costs for both (a) managing the sentence and (b) delivering court-ordered requirements. Excludes centrally managed contract costs for Electronic Monitoring and Sentence Order Attendance Centres.</li> </ul>