

Title: Updated overarching Impact Assessment for the Ministry of Justice's provisions within the Crime and Courts Bill for Commons Introduction. Lead department or agency: Ministry of Justice Other departments or agencies: Home Office	Impact Assessment (IA)		
	Date: 20 December 2012		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary Legislation		
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Summary: Intervention and Options **RPC Opinion: RPC Opinion Status**

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
Not quantified	N/A	N/A	No	NA

What is the problem under consideration? Why is Government intervention necessary?
Government intervention is necessary to promote efficiencies within the operations of courts and tribunals, tackle the non-compliance with court imposed financial penalties and provide greater transparency to the judicial appointment process and promote judicial diversity. Furthermore, intervention is required to improve the effectiveness and credibility of community sentences by ensuring that they contain a punitive element and to ensure that prosecutors have the right tools to tackle effectively economic crime and to maintain confidence in the justice system. Finally, the Bill contains a measure to strengthen the law on the use of force in relation to householders defending themselves and others from intruders in their homes. Individual impact assessments have been prepared (where appropriate) for each Ministry of Justice provision within the Bill. These individual impact assessments provide greater detail on each problem under consideration and why government invention is necessary.

What are the policy objectives and the intended effects?
The Ministry of Justice's provisions within the Bill aim to: establish the Single County Court and Single Family Court; create a data sharing gateway to allow for the swift processing of fee remission applications and to facilitate the effective setting and enforcement of fines and other financial penalties; remove barriers to facilitate court broadcasting; reduce the cost of enforcing court fines; reform the judicial appointments and deployment process; enable immigration and nationality judicial review cases to be transferred from the High Court to the Upper Tribunal, ensure that community sentences are more robust and inspire public confidence; establish Deferred Prosecution Agreements and strengthen the law on the use of force in relation to householders defending themselves and others from intruders in their home. Ultimately, the Ministry of Justice provisions within the Crime and Courts Bill aim to create a more effective, transparent and efficient justice system.

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

Option 1: Retain the current position. Do nothing
Option 2: Take forward all the provisions detailed within this Impact Assessment

Option 2 is the preferred option as it will support improvements in the efficiency and effectiveness of the justice system.

Will the policy be reviewed? See individual Impact Assessments **If applicable, set review date:** Month/Year

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

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

Signed by the responsible Minister:  Date: 20 December 2012

Summary: Analysis & Evidence

Description: The Ministry of Justice provisions within the Crime and Courts Bill

FULL ECONOMIC ASSESSMENT

Price Base Year 2012/13	PV Base Year: n/a	Time Period Years :	Net Benefit (Present Value (PV)) (£m)		
			Low: -	High: -	Best Estimate: -

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	£35m	-
High	-	£62m	-
Best Estimate	£13m	-	-

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

Key monetised costs by 'main affected groups' are detailed in individual impact assessments. In summary the key monetised costs fall primarily to the Ministry of Justice and relate to the implementation of each provision. There will be economic costs in steady state associated with the community sentences proposals (£35-£60m) and for deferred prosecution agreements (£2m). Transition costs arise on establishing the single family court (£2m), information sharing (£1m) and community sentences (£10m). For details of net impacts, please see the summary table on p.6.

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

There are various key non-monetised costs to the Ministry of Justice's provisions. These non-monetised costs by 'main affected groups' are detailed in individual impact assessments.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-	£9m	-
High	-	£69m	-
Best Estimate	n/a	-	-

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

Key monetised benefits by 'main affected groups' are detailed in individual impact assessments.

Monetised benefits from fines enforcement fall to Her Majesty's Courts and Tribunals Service (HMCTS) who will benefit from a reduction in the net cost of compliance and enforcement activities, by imposing a charge on offenders to recover compliance and enforcement costs (approx £4m in steady state).

The government may see an increase in net penalty income as a result of the introduction of Deferred Prosecution Agreements and the Serious Fraud Office and HMCTS may also benefit. The economic benefits are estimated to be between £5-£65m in steady state. For details of net impacts, please see the summary table on p.6.

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

Key non-monetised benefits by 'main affected groups' are detailed in individual impact assessments. Ultimately, these reforms aim to enhance the public's experience, and confidence in, Her Majesty's Courts and Tribunals Service and Ministry of Justice while improving efficiency.

In terms of the community sentences proposals, there may be some financial benefits to the Ministry of Justice through greater use of financial penalties and to victims from a higher value, and a greater volume of enforced compensation orders. There may be some intangible benefits arising from a greater level of victim and public confidence in the criminal justice system. There may also be long term, dynamic changes to the re-offending rate, which would have positive social impacts through lower crime and potential for lower future criminal justice system costs.

As it is rare under the current law for a householder to be prosecuted or convicted for defending him or herself from an intruder, there are unlikely to be significant savings from these measures in terms of reduced numbers of prosecutions or cases being considered by the courts. However, the changes may result in some householders who have used force in self defence being treated more fairly by the Criminal Justice System in the future than would have been the case under the current law, which may reduce costs marginally. The greatest impact of these measures is to boost public confidence in the law.

Key assumptions/sensitivities/risks

Discount rate (%)

N/A

The above monetised and non-monetised costs and benefits are based on the key assumptions outlined in the individual impact assessments which contain a breakdown of the risks and benefits in further detail. The numbers presented here represent gross costs and benefits associated with these measures and may therefore differ from the net costs and benefits presented in the summary table on page 6.

BUSINESS ASSESSMENT (Option 1)

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

Evidence Base (for summary sheets)

Introduction

The Crime and Courts Bill brings together provisions from both the Home Office and the Ministry of Justice to deliver commitments outlined in the Business Plans for both Departments and the Coalition Agreement. This overarching impact assessment has been developed to provide an overview of the costs and benefits of the main Ministry of Justice provisions within the Bill. Some of the Ministry of Justice's provisions have little or minor impact and therefore require no impact assessment. However, individual impact assessments have been prepared for the following provisions –

- The Single County Court;
- The Single Family Court;
- An Information Sharing Gateway for Fee Remission applications;
- Judicial Appointments and Diversity (including judicial deployment);
- Fines Enforcement;
- Community Sentencing; and
- Deferred Prosecution Agreements.

For each provision, the rationale, problem under consideration, policy objectives and options have been considered. The overarching problems under consideration are the current inefficiencies within the operations of courts and tribunals, the non-compliance with court imposed financial penalties, the lack of transparency in elements of the judicial appointments process, the limited confidence that the public have in community sentencing and the need to do more to tackle serious economic crime. Due to the complex nature of these problems and their strong ties into primary legislation, they cannot be addressed without government intervention. In summary the Ministry of Justice provisions in the Crime and Courts Bill aims to collectively deliver:

- A swifter, more open and effective court and tribunal system;
- Greater transparency in the judicial appointments process and improve judicial diversity;
- Community sentences that strike the right balance between punishment and rehabilitation and enable better reparation to victims;
- A new tool (namely Deferred Prosecution Agreements) that prosecutors can use to effectively tackle economic crime by organisations and maintain confidence in the justice system; and
- A strengthening of the law on the use of force in relation to householders defending themselves and others from intruders in their home (we are not providing a standalone impact assessment for the reasons set out below)

Options Considered

The Ministry of Justice has considered the following two options:

- Option 1: Retain the current position. Do nothing
- Option 2: Take forward all the provisions detailed within this Impact Assessment

Summary of Provisions

The Single County Court

The Bill creates a single county court exercising a national jurisdiction over the whole of England and Wales. This will replace the current system whereby each county court maintains its own geographical jurisdictional boundaries. The intended effects are to reduce waiting times, to enable court users to make more informed choices over court location and to improve overall resource efficiency.

The Single Family Court

The Bill will simplify and improve the family court system by creating a single family court thus providing users with a single point of entry to the system. All levels of the judiciary (including magistrates) will sit in the family court and work will be allocated to the appropriate level of judiciary on a case by case basis.

Information Sharing Gateway

The Bill will establish a specific data sharing gateway between HM Courts and Tribunals Service (HMCTS), UK Supreme Court, the Public Guardian and HM Revenue and Customs, the Department for Work and Pensions and a Northern Ireland Department which will allow eligibility for fee remissions to be checked electronically. This will replace the current paper evidence system.

Judicial Appointments and Diversity (including Judicial Deployment)

The Bill aims to increase judicial diversity by introducing part-time working into the High Court, Court of Appeal and UK Supreme Court and allowing positive action to promote diversity where two candidates are of equal merit. Changes will also be made to the appointments process to address the balance of judicial, executive and independent responsibilities and to make the process more transparent and streamlined allowing a more flexible response to business needs. Flexible deployment will allow judges to be deployed between Courts and Tribunals.

Fines Enforcement

It is the ambition of HMCTS to continue to move to a compliance rather than enforcement regime, as set out in the HMCTS Criminal Compliance and Enforcement Blueprint. The Bill will remove the current ambiguity in legislation in relation to the role of the fines enforcement officer to reduce the risk of a successful legal challenge if at any point HMCTS were to contract out the role. Secondly, the Bill will enable the imposition and recovery of a charge imposed on offenders for the costs of collecting or pursuing financial impositions. This would mean that costs incurred can be recovered rather than being subsidised by the Government / taxpayer as is currently the case.

Community Sentences

There is some evidence to suggest that community sentences do not command the confidence of the public – in 2007/08 more than three-quarters of respondents to the British Crime Survey (77%) felt that sentences given by the courts were too lenient. Research undertaken by the Sentencing Advisory Panel showed that when asked to think freely about the principal aims of sentencing, punishment was brought up most often by members of the public¹.

Many community orders do not contain any visibly punitive or demanding element. For example, in 2011 around 10% of community orders contained just a supervision requirement, while the average length of a community order has fallen by around 10% since 2006.² The percentage of successfully completed orders is also still too low. The Government is determined to strengthening community sentences and increase public confidence that community orders provide an adequate sanction for criminal behaviour. The Bill therefore brings forward the following measures which aim to strengthen community sentences, ensure they do more for victims and inspire public confidence:

- create a duty for courts to include a punitive element in every community order;
- give courts the power to impose an electronic monitoring requirement for the purpose of location monitoring;
- take into account offenders' assets when fixing the value of financial penalties;
- allow for better data sharing for the purpose of fixing and enforcing financial penalties.

¹ Sentencing Advisory Panel (2009) – Public attitudes to the principles of sentencing

² Offender Management Caseload Statistics 2011, <http://www.justice.gov.uk/statistics/prisons-and-probation/oms-quarterly/oms-quarterly-editions>

- explicitly provide for courts to defer sentencing to allow for a restorative justice intervention; and
- remove the current £5,000 limit on compensation orders imposed in magistrates' courts.

Deferred Prosecution Agreements

Tackling financial and economic crime, which encompass an array of offences such as theft, fraud and bribery is a key commitment within the Coalition agreement.³ Economic crime, both by organisations and individuals, causes severe harm to its direct victims and grave damage to our economy. In 2012, the National Fraud Authority estimated that fraud committed by all types of offenders cost the UK £73 billion per year.⁴

The Government is committed to ensuring that investigators and prosecutors have the right tools to tackle effectively economic crime and maintain confidence in the justice system. To this end the Bill sets out provisions to establish Deferred Prosecution Agreements (DPAs) in England and Wales. DPAs will allow prosecutors to hold offending organisations to account for their wrongdoing in a focused way without the uncertainty, expense, complexity or length of a full criminal trial. Prosecutors will be able to bring more cases to justice, secure tough penalties for wrongdoing and ensure reparation for more victims.

A DPA will be a voluntary agreement between a prosecutor and an organisation (DPAs will not be available to individuals) where, in return for compliance with a range of tough terms and conditions, the prosecutor will defer a criminal prosecution. The judiciary will play a vital independent role to ensure that DPAs are properly scrutinised, transparent and in the interests of justice. There will be public scrutiny of the process as the DPA will be approved in open court, and details of the DPA and subsequently of compliance with it, will both be published by the prosecutor. DPAs will be available solely for offending behaviour by organisations in respect of specified economic and financial crimes.

Strengthening the law on the use of force in self defence

The current law makes clear that people can use force that is reasonable in the circumstances as they believed them to be to defend themselves, to protect others, to prevent crime or to protect property, but the use of disproportionate force will never be considered reasonable.

The Government wants to increase the level of protection that is afforded to householders who are defending themselves or others from intruders in their home so that the use of disproportionate force – but not grossly disproportionate force – can be reasonable in the circumstances and therefore lawful.

It is rare under the current law for a householder to be prosecuted or convicted for defending him- or herself from an intruder, so these changes are unlikely to lead to significant savings in terms of reduced numbers of prosecutions or cases being considered by the courts (although the changes may result in some householders who have used force in self defence being treated more leniently by the Criminal Justice System in the future than would have been the case under the current law). The greatest impact of these measures is a non-monetary one in terms of boosting public confidence in the law. For these reasons we are not publishing a standalone impact assessment on this measure and impacts have not been quantified.

³ http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf

⁴ *Annual Fraud Indicator*, National Fraud Authority (2012)

Summary of net economic costs from MoJ provisions⁵ in the bill

Table 1: net economic costs⁶ of option 2, 2012/13 prices^{7&8}

Policy proposal	Steady state net cost
Single Family Court	Not quantified
Single County Court	Negligible
Information Sharing (Fee Remissions)	Negligible
Judicial Appointments and Deployment	Not quantified
Fines enforcement	£4m
Community sentences	£35 to £60m
Deferred Prosecution Agreements	£5m to £65m
Strengthening the law on the use of force in self defence	Not quantified
Total	£35m to £50m approx

The key monetised **costs** and benefits by 'main affected groups' are detailed in separate impact assessments.⁹ Below are the transition and ongoing costs associated with the Ministry of Justice's proposals in this Bill. All monetised costs and benefits quoted in this impact assessment are expressed in 2012/13 price levels.

Transition costs:

The key monetised costs fall primarily to the Ministry of Justice and relate to the implementation and development of each provision. We assume that these are incurred in the first year of implementation of each of these proposals and are presented in 2012/13 prices. These costs arise from:

- Establishing a single family court of (approx £2m);
- Information sharing for the purposes of fee remissions of (approx £1m); and
- Investment in 'start up' funds for community sentences to deliver training to staff and volunteers in local areas. We consider that start-up costs would be around £10m which would be incurred by local probation trusts.

Ongoing costs:

The principal monetised cost to the Ministry of Justice relates to reforming community sentencing which will cost the Department between £35m and £60m per year. There are also various key non-monetised costs to the Ministry of Justice's provisions in the Crime and Courts Bill. These non-monetised costs by 'main affected groups' are detailed in individual impact assessments.

Ongoing benefits:

The key monetised **benefits** by 'main affected groups' are detailed in separate impact assessments.

⁵ The measures in the table are MoJ provisions, the estimated costs and savings are economic ones so reflect both the financial impact on MoJ and other bodies and the monetisation of other impacts for example the Deferred prosecution agreement IA incorporates the opportunity costs of other priorities which will not be met as a result of the increased burden associated with the new proposals.

⁶ A negative cost indicates a saving

⁷ The government response IA to 'Punishment and Reform: effective community sentences' contained costs expressed in 2011/12 prices and the government response IA for Deferred Prosecution Agreements presented figures in 2010/11 prices. To ensure consistency and comparability, we have updated these figures and expressed them in 2012/13 prices for the purposes of this IA. The figures presented throughout this IA may therefore differ from those presented in the original standalone impact assessments for these policies. We have adjusted these into 2012/13 prices using HM Treasury's GDP deflator and rounded where appropriate.

⁸ Please note, that for Deferred Prosecution Agreements(DPAs), the sum of the components of the net impacts presented in the benefits section below for the SFO, HMCTS and net penalty income do not sum to the total net impact presented in Table 1 above. This is due to rounding errors.

⁹ This is with the exception of the proposal in relation to strengthening the law on the use of force in self defence. A standalone IA has not been published.

In terms of the fines enforcement proposal:

- HMCTS will benefit from a reduction in the net cost of compliance and enforcement activities, by imposing a charge on offenders to recover compliance and enforcement costs. This is estimated to be approximately £4m per year.

In terms of the DPA proposals, the key monetised net benefits are outlined below:

- The Government may see an increase in net penalty income as a result of the introduction of DPAs. It is difficult to be certain about the potential magnitude of penalty income from DPAs in England and Wales as this is a new tool and there are no existing sentencing guidelines on the range of penalties on conviction for the offences which are likely to be covered by these agreements. Due to the uncertainty, we have modelled the impact of 3 potential penalty scenarios. The increase in net penalty income¹⁰ could be £3m- £4m (scenario 1); £10m -£20m (scenario 2) and £30m -£60m (scenario 3) per year. Scenario 1 is based on penalties data for completed SFO cases involving organisations, so gives a good indication of current average penalty levels. Scenario 2 is based on penalties imposed for competition offences¹¹ by the OFT in 2010 and 2011. We have used OFT cases as a proxy for the sorts of cases that could be suitable for DPAs and to gauge the capacity of firms to absorb this level of penalty. Scenario 3 is based upon DPA penalties in England and Wales being at best, around 50% of the levels seen in the US.
- In addition, as it is estimated that DPA cases will be shorter and less expensive than most current prosecution routes, DPAs are likely to result in lower annual average costs for the Serious Fraud Office (SFO) and Crown Prosecution Service (CPS), resulting in net savings of between £0.8m and £1.2m per year for the SFO. It is expected that the CPS will enter into fewer DPAs than the SFO but it has not been possible to quantify this potential benefit.
- HMCTS are also expected to benefit as a result of the introduction of DPAs and net savings are expected to be between £0.03m and £0.06m per year.

In terms of the community sentences proposals, the key benefits have not been monetised:

- There may be some financial benefits to the Ministry of Justice through greater use of financial penalties and to victims from a higher value, and greater volume of enforced compensation orders.
- There may be some intangible benefits arising from a greater level of public confidence in the criminal justice system.
- There may also be long term, dynamic changes to the re-offending rate, which would have positive social impacts through lower crime and potential for lower future Criminal Justice System costs.

In terms of the proposals to strengthen the law on the use of force in self defence, the key benefits have not been monetised:

- As it is rare under the current law for a householder to be prosecuted or convicted for defending him- or herself from an intruder, there are unlikely to be significant savings in terms of reduced numbers of prosecutions or cases being considered by the courts. However, the changes may result in some householders who have used force in self defence being treated more fairly by the Criminal Justice System in the future than would have been the case under the current law, which may reduce costs marginally.
- The greatest impact of these measures is to boost public confidence in the law.

There are also various other non-monetised benefits which are detailed in individual impact assessments. Ultimately, these reforms aim to enhance the public's experience, and confidence in, HMCTS, the CPS, SFO and the Ministry of Justice, while improving efficiency.

¹⁰ Please note that the increase in penalty income, net savings to SFO and HMCTS are represented in 2012/13 prices for the purposes of this IA and may differ from those presented in the standalone DPA IA.

¹¹ Under the Competition Act 1998 and Article 101 of the EC Treaty.

Table 1 aggregates the monetised costs and benefits of each Ministry of Justice provision within the Bill. The key **risks** and **underlying assumptions** used to calculate the costs and benefits for each provision are clearly set out in individual impact assessments.

These individual impact assessments can be located at:

- Single Family Court - <http://www.homeoffice.gov.uk/publications/about-us/legislation/crime-courts-part2/family-court?view=Binary>
- Single County Court - <http://www.homeoffice.gov.uk/publications/about-us/legislation/crime-courts-part2/ia-single-county-court?view=Binary>
- Information Sharing (Fee Remissions) - <http://www.homeoffice.gov.uk/publications/about-us/legislation/crime-courts-part2/fee-disclosure?view=Binary>
- Judicial appointments and deployment - <https://consult.justice.gov.uk/digital-communications/judicial-appointments-cp19-2011>
- Enforcement – <http://www.homeoffice.gov.uk/publications/about-us/legislation/crime-courts-part2/payment-fines?view=Binary>
- Community Sentences - <https://consult.justice.gov.uk/digital-communications/effective-community-services-1/results/community-sentences-response-ia.pdf>
- Deferred Prosecution Agreements - <https://consult.justice.gov.uk/digital-communications/deferred-prosecution-agreements/results/dpa-ia.pdf>

Preferred Option

For the reasons detailed in each individual impact assessment, and above, the Ministry of Justice intends to proceed with option 2.

Specific Impact Tests

Specific impact tests have been undertaken (where required) for each Ministry of Justice provision and included within the relevant individual impact assessment. A list of specific impact tests considered is set out below for references. Equality impact assessments have been prepared where required.

- Competition Assessment
- Small Firms Impact Test
- Carbon Assessment
- Other Environment
- Health Impact Assessment
- Human Rights
- Rural Proofing
- Sustainable Development

One in One Out

All seven separate impact assessments are out of scope.