

## Summary: Intervention & Options

Department /Agency:  
Ministry of Justice

Title: Engaging Communities in Criminal Justice – Green Paper  
Impact Assessment of Chapter 2: Making Amends:  
Payback, reparation and restorative justice

Stage: Options Stage

Version: First

Date: April 2009

Related Publications:

Available to view or download at:

<http://www.cjsonline.gov.uk>

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

The problem is insufficient public awareness of, and confidence in, community sentences in general and the 'community payback' (unpaid work) element of them in particular (highlighted by Louise Caseys review). This lack of confidence can make it less likely that sentencers use community orders, which are an appropriate (and cost-effective) disposal for some offenders. More widely, public confidence in the Criminal Justice System (CJS) is one indicator of the Government's Public Service Agreement Target 24 (Deliver a more effective, transparent and responsive CJS for victims and the public). More specifically Restorative Justice procedures have been shown to produce high levels of victim satisfaction, but are not widely used for adults.

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

The main objective and intended effect is to improve public knowledge of, and thereby confidence in, community orders in general and 'community payback' in particular, in part by increasing public involvement in the way 'community payback' is delivered. Further objectives are: by increasing the intensity and speed of delivery of community payback for some offences and offenders, to make them more likely to comply with their community sentences; and to increase victim satisfaction by wider use of Restorative Justice.

**What policy options have been considered? Please justify any preferred option.**

- 0) Do nothing
- 1) Implement some of the proposals
- 2) Implement all of the proposals

The preferred option is to implement all community payback proposals to give a mutually reinforcing, multi-pronged approach: extending intensive community payback, with faster delivery; giving the public more, clearer, information about community sentences; and extending 'citizen panels', and giving the public more say on the type of work that offenders carry out as community payback, including by extending citizens panels; and to consult on what more can be done to encourage community involvement in Restorative Justice.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** No firm implementation date has yet been set for the proposals. However, the Ministry is committed to post implementation reviews, further development of the proposals and Impact Assessments will enable us to set a specific date.

**Ministerial Sign-off** For consultation stage Impact Assessments:

*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:

## Summary: Analysis & Evidence

<b>Policy Option:</b>	<b>Description:</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups'  The costs in this chapter are mainly for raising awareness of community payback work carried out under proposals 11 to 13
	One-off (Transition) <span style="float: right;">Yrs</span> £ 1.17M - 3.59M	
	Average Annual Cost (excluding one-off) £	
	<b>Total Cost (PV)</b>	
Other <b>key non-monetised costs</b> by 'main affected groups'		

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups'  It is not possible at this stage to cost the benefits of this policy option, but it will be related to an increase in community confidence
	One-off <span style="float: right;">Yrs</span> £	
	Average Annual Benefit (excluding one-off) £	
	<b>Total Benefit (PV)</b>	
Other <b>key non-monetised benefits</b> by 'main affected groups'		

Key Assumptions/Sensitivities/Risks
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Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?	England and Wales				
On what date will the policy be implemented?					
Which organisation(s) will enforce the policy?	Various CJS agencies				
What is the total annual cost of enforcement for these organisations?	£ not yet known				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per year?	£ 0				
What is the value of changes in greenhouse gas emissions?	£ 0				
Will the proposal have a significant impact on competition?	Yes/No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; background-color: #fff2cc;">Micro</td> <td style="width: 25%; background-color: #fff2cc;">Small</td> <td style="width: 25%; background-color: #fff2cc;">Medium</td> <td style="width: 25%; background-color: #fff2cc;">Large</td> </tr> </table>	Micro	Small	Medium	Large
Micro	Small	Medium	Large		
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; background-color: #fff2cc;">Yes/No</td> <td style="width: 25%; background-color: #fff2cc;">Yes/No</td> <td style="width: 25%; background-color: #fff2cc;">N/A</td> <td style="width: 25%; background-color: #fff2cc;">N/A</td> </tr> </table>	Yes/No	Yes/No	N/A	N/A
Yes/No	Yes/No	N/A	N/A		

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of	£ 0	Decrease of
	£ 0	<b>Net Impact</b>
		£ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Evidence Base (for summary sheets)

We have a shared agenda to increase public confidence, set out in the new criminal justice Public Service Agreement targets (PSAs), which can only be achieved if Criminal Justice services and local partners work effectively with each other and with (and for) the public. The PSAs are: 23 (Make Communities Safer), 24 (Deliver a more effective, transparent and responsive CJS for victims and the public), and 25 (Reduce the harm caused by alcohol and drugs). We need to build on achievements of the last ten years and be more ambitious in our efforts to:

- Improve the quality and consistency of the services we provide;
- Improve the experience of all those who use and work in – or with - the CJS;
- Respond effectively and proportionately to the concerns of the communities we serve; and
- Improve criminal justice outcomes for all and provide assurance to communities that the CJS is delivering on its core aims of punishment and reform.

The Green Paper and consultation are built around three primary aims which are at the heart of the debate. A summary: Interventions and Options sheet has been completed to assess the impacts for each of these three primary aims:

- **A: Strengthening the connections between communities and their prosecution and court services** - building on the success of Community Justice and the problem-solving approach to help the community and enable offenders to reform and to make amends.
- **B: Ensuring that justice outcomes are more responsive and more visible** - Increase visibility and responsiveness of Community Payback and other forms of reparation and compensation so that justice is delivered and seen to be delivered, and promoting the use of Restorative Justice to increase victim satisfaction; and
- **C: Keeping communities informed, getting people involved, empowering communities** - empower communities by improving information the public receives about case outcomes: ensuring the public can see a real connection between the crime and the punishment (and reform) meted out in response.

It also provides an opportunity for the Ministry of Justice to set out its thinking in response to the proposals in the Cabinet Office Review of Crime and Communities (the Casey Review). The proposals outlined in this Green Paper are consistent with the approach taken by the Review, and the recent Policing Green Paper – ‘From the Neighbourhood to the National: Policing Our Communities,’ published in July 2008

Evidence is presented to support the second primary aim

### **Evidence Base for Aim B: Ensuring that justice outcomes are more responsive and more visible - Increase visibility and responsiveness of Community Payback compensation and Restorative Justice**

The public tend to take the view currently that the CJS is on the side of the offender rather than the victim, as demonstrated in the following findings from the British Crime Survey for the year ending March 2008:

- 80% thought that the CJS respects the rights of the defendants;
- 36% thought that the CJS meets the needs of victims (36%; year ending March 2008)
- 79% felt that sentences at courts were too lenient;

These perceptions are despite the following trends;

- Measures to ensure longer sentences for certain offenders and offences and new sanctions such as indeterminate sentences of imprisonment for Public Protection.

- Offenders sentenced in court increased from 1.354 million in 1995 to 1.421 million in 2006.
- Number of offenders given a custodial sentence rose from 79,538 in 1995 to 101,236 in 2005. During this period average sentence lengths increased by 24%. However, prison sentences only account for a small proportion of all sentencing (varying between 6% and 8% over the last ten years.)

These figures show that more needs to be done to raise awareness of community payback and increase confidence in community orders as a sentence. The use of community orders, and in particular community payback (unpaid work) is growing (unpaid work is the most common requirement in a community order, making up 32% of all community orders in 2006), but the public are currently not sufficiently aware of the work being done, or the benefits it is bringing to their local community.

In a public survey in March 2007, only 1 in 8 said they were aware of a project in their area that had benefited from unpaid work carried out under a community order (survey quoted in the *Engaging Communities in Fighting Crime* review by Louise Casey 2008). In the same survey, only a third of respondents felt that Community Orders were an effective means of punishment. A recent 'Community Sentencing Research and Insight Audit', commissioned by the Ministry of Justice, found that "The public see community sentences as a soft option inappropriate for serious offenders (as quoted in the Casey Review 2008). They are concerned that "community sentences are not supervised properly and do not prevent re-offending". This audit also found that there is support for the objectives of Community Payback, and of drug and alcohol treatment and skills training to prevent re-offending – as long as these are in addition to punishment.

However, there is support for the concept of offenders 'paying back their communities' through unpaid work, so long as it is tough, demanding work. Respondents to a survey carried out as part of the Casey Review were asked what more they wanted from the Criminal Justice Services to improve their confidence and engagement. One of the main requests was for 'all punishments for crime to involve some recompense to them, either through a fine or tough work in the community'. A survey of victims of non-violent crime for the Ministry of Justice in October 2007 found that while punishment was seen as the most important part of a criminal sentence (49%), 'payback' was the second most important (43%) and 'rehabilitation' the third (36%) (Survey carried out by ICM for the Ministry of Justice, 2007).

Research suggests that increasing the public's understanding of the conditions of community penalties makes them more acceptable to the public (Roberts, J.V. and Hough, M.J. (2005) *Understanding public attitudes to criminal justice*. Open University Press). A Public Accounts Committee report on 4 November 2008 recommended that more data on the use and effectiveness of Community Orders should be made available to the courts, and to the public, to increase confidence.

The focus on community engagement strategies is supported by other findings from surveys on what drives perceptions. A key finding is the importance of communications to perceptions of crime and related issues – that those who feel informed are more confident in the approaches being used (Duffy B, Wake R, Burrows T and Bremner P 2008 *Closing the Gaps: Crime and public perceptions*).

Alongside payback to the community, the Green Paper also looks at increasing the use of Restorative Justice practice for victims of crime, where the offender and the victims engage in direct or indirect reparative communication. This approach is widely used within the youth justice system, but the use of Restorative Justice is not so common amongst adult offenders. During 2006-7 17,728 victims of young offenders participated in restorative processes, and 97% of the participating victims reported satisfaction. The Crime Reduction Programme Restorative

Justice Pilots (which ran from 2001 to 2004 in London, Northumbria and Thames Valley) underwent an in depth evaluation of the benefits of the approach. Their 4th, and final, evaluation report examining the impact of restorative justice on re-offending, was published in June 2008.<sup>1</sup> The evaluation of the Restorative Justice Pilots mentioned above, and earlier reports, have suggested that:

- Restorative Justice can, in some cases, reduce re-offending, but there is no evidence that it is more effective in doing so than other interventions. There is nothing to suggest that any particular type of offence or offender is best suited to a Restorative Justice approach;
- victims who participated in restorative justice processes had very high levels of satisfaction – 85 % of victims interviewed who participated in restorative conferences (a form of face to face restorative justice) were very or quite satisfied, and over 75% would recommend the process to others for similar offences;
- Restorative justice conferencing, whereby facilitators take participants through a structured face-to-face meeting with supporters may deliver strong victim benefits.

The consultation document sets out a number of propositions, each of which contributes to one or more of these aims. Collectively, the propositions offer opportunities to improve the offer from criminal justice services to communities and to bring about real and positive change in the public's relationship with the CJS. Only then will we achieve our ambition of transforming criminal justice from a system that "does to" to a true service that "does for".

The Green Paper looks at ways of seeking to improve public awareness and involvement in community payback, and so increase confidence in the order itself, as well as a sense of benefit from the work being done.

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<sup>1</sup> [http://www.justice.gov.uk/restorative-justice-report\\_06-08.pdf](http://www.justice.gov.uk/restorative-justice-report_06-08.pdf)

## **The Proposals, Options Costs and Benefits for Aim B**

Do Nothing: although much has been done to reduce crime and improve confidence, the British Crime Survey shows that there is still much to do to ensure the criminal justice agencies are visible, approachable and responsive to community needs. The Government therefore believes that to do nothing and maintain the current status quo is not an option.

### **Benefits and Costs:**

To do nothing will not generate additional costs or savings to the public sector and taxpayer. However it will not provide further benefits or build on the success of the steps already taken.

Options: Below we have discussed the individual propositions in the green paper. We are considering each individual proposition whether to implement them and how to do so. Each of the propositions is discussed below including the benefits and costs.

Options A: Implement all the propositions 11 to 14

Option B: Implement some of the propositions 11 to 14

We would be grateful for stakeholder comments and views on each of the individual propositions 11 to 14 and also on the way we are considering packaging the measures together for implementation.

### ***PROPOSITION 11: Extending intensive Community Payback with faster delivery***

#### **Benefits**

We expect that the Intensive Community Payback offer would increase compliance, and the confidence of the public in the effectiveness of Community Orders.

#### **Cost**

Unknown – awaiting the results of a pilot in West Yorkshire, and experience from introducing intensive community payback for knife possession offences. Both pilots are currently operating within existing budgets, but will determine whether further funds are needed.

### ***PROPOSITION 12: Increasing the visibility and impact of Community Payback***

#### **Benefits**

Members of the public will have a clear idea of what to expect from community payback and how they can contribute, leading to increased confidence in the penalty as a punishment, and also as a mechanism for making meaningful reparation to the community.

#### **Cost**

One off costs of between £1.17M and £3.59M for communications to raise awareness

### ***PROPOSITION 13: Systematic Engagement of Citizens in Community Payback***

#### **Benefits**

This is a natural extension of the existing pilot schemes. Rolling Citizens Panels out nationally would be a strong confirmation of our determination to give local people a say in the way community sentences work.

#### **Cost**

Nil

***PROPOSITION 14: Restorative Justice; raising awareness of the benefits to victims, and doing more to encourage its provision in the Criminal Justice System.***

**Benefits**

Restorative justice processes have been shown to increase victim satisfaction in the CJS. They can also involve communities in criminal justice (e.g. CJS agencies can refer cases of low level anti-social behaviour to local volunteers trained in Restorative Justice) and allow offenders to make amends to communities (e.g. serving prisoners working on local voluntary sector projects).

**Cost**

Nil

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	No - see evidence base. Will be published at a later date	No
Disability Equality	No - see evidence base. Will be published at a later date	No
Gender Equality	No - see evidence base. Will be published at a later date	No
Human Rights	No - see evidence base. Will be published at a later date No	No
Rural Proofing	Yes	No

## Annexes

### Specific Impact Tests

Competition Assessment – We have completed the checklist, and none of the proposals contained in the Green Paper: directly limit the number or range of suppliers; indirectly limit the number or range of suppliers; limit the ability of suppliers to compete; or reduce suppliers' incentives to compete vigorously. Therefore, we have concluded that these proposals will not have any impact on competition.

Small Firms Impact Test – This has been completed and none of the proposals contained in the Green Paper impose or reduce costs for small businesses.

Legal Aid Impact Assessment – We have completed the Legal Aid Impact test and concluded from the results none of the proposals contained in the Green Paper indicate a downstream legal aid cost, or an impact on the workload of the courts, as the proposals do not bring in any new offences.

Sustainable Development – The Green Paper considers the benefits to society and quality of life through the implementation of the proposals. Respondents to the Green Paper are also asked to consider the costs and benefits of the proposals.

Carbon Assessment - This has not been completed as none of the proposals contained in the Green Paper will have an impact on emissions of greenhouse gases.

Other Environment - none of the proposals contained in the Green Paper will have an impact on climate change.

Health Impact Assessment - none of the proposals contained in the Green Paper will have a direct impact on health or health inequalities.

Race Equality, Disability Equality, and Gender Equality - we will be undertaking an Equality Impact Assessment (EIA) of the Green Paper as a whole and the policies and initiatives it contains. The EIA process involves consideration and assessment of the various policies, services and functions from the perspective of the six equalities groups and is intended to help identify any potential unintended consequences or negative impact on any particular group or individual. The EIA process itself involves consultation with and involvement of individuals and organisations representative of the equalities groups. We will further develop the Impact Assessment during the consultation period and also draw on additional views from consultation responses. We would expect to publish the final, full EIA alongside the summary of responses and next steps document. We would welcome thoughts from respondents on what any impacts on these groups might be.

Human rights – This will be considered as part of the Equality Impact Assessment of the Green Paper mentioned above.

Rural Proofing – as these proposals develop we will consider whether any of them are likely to have a different impact in rural areas, because of particular rural circumstances or needs. A key theme of the Green Paper is to make the criminal justice service more accountable and responsive to local communities, taking into account community needs, concerns and priorities. This means tailoring the work of the criminal justice services to the demographics of their communities, including engaging and involving people living in rural areas. We would welcome any views on how this could be done.