

Summary: Intervention & Options

Department /Agency: Home Office	Title: Impact Assessment of prostitution referral orders	
Stage: Final	Version: 0.6	Date: 25 th November 2008
Related Publications:		

Available to view or download at:

<http://www.>

Contact for enquiries: Tom Little

Telephone: 020 7035 6102

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

It is increasingly recognised that those involved in street prostitution exercise little choice. The conclusion that prostitution is more of a survival activity is based on research that shows that the common characteristics of those involved include difficult lives such poor school attendance, time spent in care, suffering periods of homelessness and problematic drug misuse.

What are the policy objectives and the intended effects?

To help break the cycle of prostitution and by helping prostitutes overcome problems that are often the primary cause of their involvement in prostitution and avoiding the self perpetuating effect of the financial burden of fines. As well as bringing about improvements for those involved in street-based prostitution, particularly in terms of health and safety, an overall reduction in the numbers involved in street-based prostitution will impact on local communities in red light areas in terms of safety and quality of life.

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

1. Do Nothing - Under this option those arrested for the offence of loitering or soliciting would continue to be fined.
2. A new sentencing order will direct the offender to an identified referral worker. The preferred option is 2. This will help support key aims of the Government's Co-ordinated Prostitution Strategy to reduce street prostitution and help develop routes out of prostitution for those involved. Option 1 will not achieve this.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? We will monitor the use of referral orders to identify the level of take-up. we will seek to identify the actual costs and benefits within 12-24 months of implementation.

Ministerial Sign-off For final proposal/implementation 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

Policy Option: 2. A new sentencing order

Description: A new sentencing order to allow courts to give rehabilitative orders.

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Courts for the additional cost of making sentencing order over a fine. Voluntary sector for carrying out the sentencing order.
	One-off (Transition)	Yrs	
	£ 0		
	Average Annual Cost (excluding one-off)		
	£ 180,000		Total Cost (PV) £ 800,000 over 5y
Other key non-monetised costs by 'main affected groups' Voluntary sector for building capacity to deliver Referral Orders			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		Total Benefit (PV) £ 0
Other key non-monetised benefits by 'main affected groups' Individual prostitutes through reduction in physical and emotional harm resulting from violence and exploitation and from working as a prostitute. The CJS, NHS and society from a reduction in the criminality resulting from prostitution.			

Key Assumptions/Sensitivities/Risks Capacity exists to carry out the orders

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ - 800,000 over 5y
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What is the geographic coverage of the policy/option?			England & Wales		
On what date will the policy be implemented?			TBA		
Which organisation(s) will enforce the policy?			Courts		
What is the total annual cost of enforcement for these organisations?			£ 140,000		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			Yes		
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)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

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

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

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Rationale

Street prostitution is of serious concern as it can involve anti-social behaviour, serious drug abuse, violence and exploitation and organised crime. However, the current law is considered to have little or no rehabilitative value since the penalty increases the likelihood of re-offending to enable those involved to pay their fines.

The essential difficulty is the mismatch between the current sentencing framework and the needs of those involved in prostitution. The offence is low level and, as such, does not reach the threshold of a community penalty. Increasing the seriousness of the offence to reach that threshold is undesirable as it increases the criminalisation of those that may be trapped in prostitution. The alternative is to introduce a new penalty specifically to address this issue.

Serious drug misuse is not unusual as a major contributory factor to the offending. Nor is a history of abuse and other 'risk' factors unique to this group of offenders. The difference for those in prostitution is the complex range of factors that lead them to the streets; the inextricable link between those risk factors and serious exploitation; and the frequency with which that link is established at a very young age. These factors also make it extremely difficult to leave street prostitution. In short, they present an unusual combination of serious social deprivation and victimhood, and low level anti-social behaviour which constitutes a significant nuisance to the local community. A new solution must be found if the criminal law is to be effective in disrupting the destructive behaviour of individuals involved in prostitution, and in disrupting the sex markets that damage local communities.

Paying the Price, the Government's consultation paper on prostitution¹ acknowledged that the offence of loitering or soliciting for the purposes of prostitution has been widely criticised for not reducing re-offending. Responses to the consultation reinforced this view, and a new sentencing order is proposed to rectify this situation.

Prostitution is most commonly defined as the exchange of sexual services for some form of payment, usually money or drugs. Because this document focuses on the loitering and soliciting offence, it relates to street prostitution only.

It is increasingly recognised that those involved in street prostitution exercise little choice. The conclusion that prostitution is more of a survival activity is based on research² that shows that the common characteristics of those involved include:

- difficult lives – many reported poor school attendance, as many as 70% spent time in care, and many reported running away from home or suffering periods of homelessness, and:
- problematic drug misuse - as many as 95% use prostitution to support their own (and often a partner's) problematic drug use.

¹ *Paying the Price: a consultation paper on prostitution*, Home Office, 2004

² These figures are drawn from a number of small scale studies, as set out in Annex C of *Paying the Price*

Many street prostitutes are trapped by poor education, the need to fund a serious drug habit, the violence and coercion of pimp/partners, and by very low self esteem which makes it difficult to contemplate any other life choice.

Criminal statistics show significant decline in the number of cautions and prosecutions for street offences from the early 1990s. But a local focus on increased enforcement typically only displaces those involved because it fails to address the reasons that keep them on the streets. That displacement may be to other areas or may be into other activities to fund serious drug misuse, including street crime. Once an enforcement sweep ends, kerb crawlers and prostitutes typically return to the area.

Objectives

- To help break the cycle of prostitution and by helping women find routes out – orders can include meetings with the voluntary sector organisation to help prostitutes overcome problems with alcohol or drugs, which are often primary caused for their continued involvement in prostitution.
- To offer an alternative to fines, as fines can sometimes reinforce the problem by forcing women back into prostitution to pay the fine.
- To reduce the level of prostitution and the resulting crime, nuisance and antisocial behaviour experienced by communities.

Costs of street prostitution

The costs of street prostitution include:

- costs to **those involved in prostitution** - costs accrue from the direct effects of being victims of crime or exploitation as well as the cumulative effects of involvement in street prostitution. This includes long-term physical and mental health problems, poor self esteem and other issues which create barriers to alternative employment, housing and other signifiers of social exclusion.
- costs to **the tax payer** (through the criminal justice system and the NHS) - high costs arise in a number of different ways:
 - those involved in street prostitution are statistically more likely to be victims of violent and sexual crimes.
 - Many of those involved in street prostitution are problematic drug users.
 - costs to the police and other agencies.
 - to meet the costs of controlling prostitution and responding to reports of anti-social behaviour linked to prostitution.
 - to meet the costs of cautions and prosecutions for loitering or soliciting for the purpose of prostitution.
- costs to **those involved in prostitution and to local residents** - costs accrue from the criminal activities associated with prostitution, including pimping, kerb crawling, drug dealing and public disorder.

Options

Option A Do nothing

This option is included for comparison purposes. Under this option those arrested for the offence of loitering or soliciting would continue to be fined. The risk with this option is that street prostitution will continue to impact adversely on local communities, and that those directly involved in prostitution will continue to be at serious risk of increasing social exclusion, exploitation, violence - including domestic violence - and problematic drug misuse.

Option B A new sentencing order

The new order will provide a penalty tailored to the needs of those involved in prostitution. The courts will direct the offender to an identified referral worker who will require them to attend a series of three assessment sessions. The nature of these assessment sessions will depend on the offender's particular circumstances and will be designed to consider, with the offender, how best to address the particular causes of their offending behaviour. The referral worker will act as a link between women in prostitution and sources of expert advice and support.

Recent research strongly indicates that enforcement is ineffective without support to help individuals to find routes out of prostitution. Dedicated support services are generally run by the voluntary sector. Traditionally they offer outreach services and, increasingly, drop-in services in most - although not all - areas where there is a significant level of street prostitution. There are some good examples of schemes that offer a range of dedicated support services to link individuals into mainstream services and work towards the development of routes out of prostitution. These projects provide help and advice on a whole range of issues, including drug treatment, access to healthcare (including sexual health care), supported housing, debt counselling, education and employment.

How the new order will work

The new order will be available to be used instead of a fine. It will be available at the discretion of the sentencer in any case where, on the evidence before the court and on the advice of the referral worker, the making of such an order is considered likely to be beneficial, and the offender likely to comply with the requirements.

Referral workers The order will be sufficiently flexible to enable referral workers to be identified from within a range of organisations. A key element of the prostitution strategy is for local partnerships to ensure that dedicated support projects are commissioned to develop routes out for those involved in prostitution in all areas where they are required. These projects will be well placed to provide the different elements that will be included in the order, and to determine what those elements should be. They have the greatest expertise in dealing with those involved in prostitution; generally have established protocols with the police and mainstream services, including health services; and also offer a key worker approach which will be important in supporting those involved through a difficult challenge, and one in which few feel confident that they can succeed. This key worker approach will be extremely important in terms of encouraging compliance with the orders. Local projects will often already have had some contact with those referred to them, and may already have begun to develop a trusting relationship with them. On this basis it is likely that, in most cases, referral workers will be identified from within dedicated support projects, and commissioning guidance for local partnerships will include advice on ensuring that this role is included within the remit of such projects.

However, where a dedicated project is unavailable the referral worker may be located in a women's resource centre, or similar organisation familiar with the complex needs of those involved in prostitution. Suitable referral workers will also be identified to deliver orders made in respect of men involved in prostitution, or in respect of young people (under 18). In each case the referral worker will be identified by the police.

Those subject to an order will be required to attend three sessions with the referral worker. The nature of each session will be determined by the referral worker and will depend on the level of any previous contact between services and the individual, any previous progress towards finding a route out of prostitution, and the particular issues that the individual faces and which impact on her involvement in prostitution. In many cases the first session will be used to assess the woman's current situation in terms of drug use, sexual health, general health, access to suitable housing and involvement in prostitution. This session will then inform the nature of the subsequent sessions and could include, for example, an assessment from the drug treatment provider, or sexual health counsellor. The aim will be to use the opportunity provide by these sessions to build a foundation to enable the individual to continue to access support and advice to exit prostitution.

Analysis of Costs and Benefits

Volumes

The table show the volumes for cautions and proceedings for the crime of Soliciting for the Purposes of Prostitution under the Street Offences Act 1959.

Year	Cautions	Proceedings	Guilty	Fine
2004	1235	2002	1735	1406
2005	927	1376	1116	804
2006	755	845	648	459

The number of cautions and guilty verdicts for soliciting has been falling steadily over the previous decade to lows in 2006. In this analysis we use 2006 volumes which, if the downward trend continues, will be high estimate of the future impact on the criminal justice system and voluntary sector organisations.

There are a number of factors which determine what proportion of these fines will in future become referral orders.

1. If referral orders are not successful for some individuals and they re-offend repeatedly, sentencers may decide that the referral order is inappropriate and revert to fining. Here we estimate that courts may make thee to four referral orders before doing this which will reduce the proportion and additional cost of referral orders in future years as the same individuals go through the system.
2. The inclusion of 'persistence' will reduce the overall volume that goes through the courts. However, the police currently operate a policy of giving a number of warnings so the effect of this is likely to be small.
3. Not all individuals found guilty will be considered suitable for referral orders, or may not give their consent. Here we estimate this to be around 30% of the total fined, increasing as individuals receive multiple orders over time (see point 1 above). This will reduce the number of orders made in the future and therefore reduce the costs to the CJS.
4. We expect that referral orders will reduce the number of individuals in prostitution and therefore the number that will be sentenced for this offence. This is key to realising the benefits of the proposal but it is likely to build up over time. We have chosen not to include the effect in the estimate of short term CJS and voluntary sector costs here.

In summary, the impact of the increased efficacy of the new sentence and the expected reduction in use of referral orders on established prostitutes will reduce the volume or referral

orders in future years. We have chosen not to estimate the impact of these due to the lack of available data. The initial impact will be that 70% of the existing volume of fines will become referral orders as set out above. The volumes and costs estimated here represent a high estimate of the impact on the voluntary sector and the CJS. Future volumes are estimated as follows:

	Fines	Referral Orders
2006	459	0
Ongoing estimate	138	321

Benefits

To prostitutes, through a reduction in serious health problems resulting from prostitution and drug abuse, through the likelihood of being a victim of crime and exploitation and through increased opportunities to enter paid employment.

To the taxpayer through a reduction in crime and criminal activity, drug abuse and its implications and in the longer term reduction in CJS costs of prosecuting prostitutes.

To communities through the reduction in crime, nuisance and anti-social behaviour associated with prostitution and kerb crawling

Costs

Costs of a referral order result from:

- The Courts as sentencing and dealing with breaches uses greater court time, though there will be some offsetting cost reductions due to the reduced number of cases and collection and enforcement of fines.
- Voluntary sector organisations in building capacity and carrying out the referral orders and/or volunteers depending on the extent to which services are delivered by paid or unpaid workers. We assume that each of the three sessions lasts one hour and uses capacity/resources that would otherwise be used elsewhere in the voluntary, public or private sectors. The social cost of the order is therefore the employment cost of a qualified worker irrespective of whether they are paid or unpaid by the voluntary organisation.

	Courts	Voluntary Sector	Total
Additional cost of sentencing and carrying out referral orders (over and above fines)	£140,000 (courts)	£40,000	£180,000

These costs represent our estimation of the value of resources used by Her Majesty's Court Service in carrying out activities under this proposal. Actual financial impact will be dependent on the actual volumes, together with the extent to which resources are re-allocated or additional to those currently used.

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	No	Yes/No
Small Firms Impact Test	No	Yes/No
Legal Aid	Yes	Yes/No
Sustainable Development	No	Yes/No
Carbon Assessment	No	Yes/No
Other Environment	No	Yes/No
Health Impact Assessment	No	Yes/No
Race Equality	No	Yes/No
Disability Equality	No	Yes/No
Gender Equality	No	Yes/No
Human Rights	No	Yes/No
Rural Proofing	No	Yes/No

