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| Title: Increasing the Notification Requirements of Registered Sex Offenders under Part 2 of the Sexual Offences Act 2003 IA No: HO0051 Lead department or agency: Home Office Other departments or agencies: | Impact Assessment (IA) | | | |
| | Date: 05/03/2012 | | | |
| | Stage: Final | | | |
| | Source of intervention: Domestic | | | |
| | Type of measure: Secondary legislation | | | |
| Contact for enquiries: Faye Ricketts 0207 035 8430 | | | | |

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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, One-Out? | Measure qualifies as |
| £-8.7m | N/A | N/A | N/A | N/A |

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

Under existing legislation (part 2 of the Sexual Offences Act 2003) registered sex offenders are required to notify name, address, date of birth, national insurance number, and travel outside the UK of a period of 3 days or more to the police annually or whenever their details change. Not notifying foreign travel of less than 3 days has been identified as a loop hole. Police will also be able to more effectively manage offenders if they are required to notify weekly if registered as 'no fixed abode', notify if living in a household with a minor, notify passport and bank account details, and provide proof of identification at each notification. Government intervention is necessary to prevent exploitation of the system and enable robust offender management.

What are the policy objectives and the intended effects?

Public safety will always be a top priority for the Government. Where we can take further action to protect the public we will. The preferred policy option outlined within this Impact Assessment and attached document 'Reforming the notification requirements of registered sex offenders (part 2 of the Sexual Offences Act 2003): summary of responses and conclusions' will strengthen the notification requirements regime. It will provide the police with important intelligence, allowing them to manage registered sex offenders more effectively and robustly, and prevent them from exploiting gaps in existing legislation to cause harm in both the UK and overseas.

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

Option 1 - Do nothing
 Option 2 - Implement changes to notification requirements:
 i) notify the police of all foreign travel (including travel outside the UK of less than 3 days)
 ii) notify weekly where they are registered as having 'no fixed abode' (i.e. where a registered sex offender has no sole or main residence and instead must notify the police of the place where they can regularly be found);
 iii) notify where they are living in a household with a minor (child under the age of 18) and:
 iv) notify the police of passport, bank account and credit card details and to provide the police with proof of identification at each notification.
 Option 2 is the preferred option; further details are outlined in Sections D and E.

| | | | | | |
|--|--------------------|----------------------|-----------------------|---------------------------|--------------------|
| Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01/2017 | | | | | |
| Does implementation go beyond minimum EU requirements? | | | Yes | | |
| 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/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 Minister:  Date: 05/03/2012

Summary: Analysis & Evidence

Policy Option 1

Description: "Do nothing" option

FULL ECONOMIC ASSESSMENT

| | | | | | |
|-------------------------|----------------------|-------------------------|---------------------------------------|------------|---------------------|
| Price Base Year 2010 | PV Base Year 2012 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) | | |
| | | | Low: £0.0 | High: £0.0 | Best Estimate: £0.0 |

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

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

There will be no additional costs arising from the baseline, "do nothing" option.

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

There will be no additional costs arising from the baseline, "do nothing" option.

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

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

There will be no additional benefits arising from the baseline, "do nothing" option.

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

There will be no additional benefits arising from the baseline, "do nothing" option.

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

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Implementation of all four proposals extending the notification requirements for registered sex offenders.

FULL ECONOMIC ASSESSMENT

| Price Base Year 2010 | PV Base Year 2012 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) | | |
|-------------------------|----------------------|-------------------------|---------------------------------------|--------------|-----------------------|
| | | | Low: -£7.5m | High: -£9.1m | Best Estimate: -£8.7m |

| COSTS (£m) | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value) |
|---------------|--|---|-------------------------------|
| Low | 1 | £0.8m | £7.9m |
| High | | £1.0m | £9.5m |
| Best Estimate | | £0.9m | £8.7m |
| | £1.2m | | |

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

The costs set out represent the best estimate. Additional police costs are estimated to be £0.3m each year for notifications and breach preparations. Estimated additional costs to HMCTS are £0.06m each year, while CPS and LSC costs are estimated at £0.04m and £0.11 annually, respectively. Prison and probation costs are estimated to be £0.3m and £0.1m respectively. Transition costs fall to the police and include informing RSOs of changes and collecting additional details from existing sex offenders.

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

It has not been possible to monetise part of the costs, particularly in relation to enforcement and breaching additional notification requirements. There are potential costs relating to taking a child into care, but the anticipated volume of children affected is unknown. Costs in terms of possible increases in Foreign Travel Orders have not been quantified.

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

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

The policy is expected to generate benefits arising from the tightening of known loop holes in the notification requirements of registered sex offenders. However, it has not been possible to quantify these. The best estimate of total costs suggests that 25 offences would have to be prevented on average annually for the policy to break even. This represents less than 0.05 per cent of all sexual offences recorded by police in 2010/11.

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

The policy is expected to generate benefits in the form of police time saved actively monitoring offenders registered as having NFA. This is not possible to quantify since there are no data available on the current level of police resource spent on this. It is expected that the policy will tighten known loop holes in the notification requirements. It has not been possible to quantify this as the effect the policy will have on reoffending patterns and current sex offender behaviour is not known.

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

The estimates are based on assumptions regarding the additional volumes of notifications, home visits, and breaches in comparison to the baseline, 'do nothing' option. It is not possible to predict accurately any of these volumes; assumptions have been made using the limited information and data available. It has been assumed that the volume of offenders on the Sex Offenders' Register will increase by 4 per cent each year. All assumptions are set out in the Appraisal section (Section E).

BUSINESS ASSESSMENT (Option 2)

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

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

The Sexual Offences Act 2003, introduced in May 2004, provided a comprehensive new legislative framework for sexual offences, covering offences against adults, children and familial sexual offences. It also made amendments to the law governing the Sex Offenders' Register and civil orders, originally introduced in the Sex Offenders Act 1997.

The notification requirements originally came into force on 1st September 1997 in the Sex Offenders Act 1997. The Sexual Offences Act 2003 repealed and replaced the 1997 Act making considerable changes to the notification requirements.

Registered sex offenders are required to notify their personal details with the police. This is done annually and whenever their details change. This system is often referred to as the Sex Offender Register and requires offenders to provide their local police station with a record of their:

- Name;
- Address (where the offender has no sole or main residence, he/she must notify the police of the place where he/she can regularly be found);
- Date of birth; and
- National insurance number.

A registered sex offender is required to notify the above details within 3 days of the relevant data changing. This means that such an offender must make his/her initial notification within 3 days of his/her:

- Release from custody;
- Release from imprisonment or service detention; or
- Release from hospital.

Registered sex offenders are also required to notify the police if they intend to travel abroad for a period of 3 days or more. Details to be notified (normally at least 7 days in advance) are:

- Date of departure;
- Destination country (or, if there is more than one, the first);
- Point of arrival in each country to which he/she intends to travel;
- Carrier(s) he/she intends to use;
- Return date;
- Point of arrival on return to UK;
- Accommodation arrangements for the first night.

The local police will then make a decision as to whether to pass this information on to the Serious Organised Crime Agency to notify police in the destination country. If there is evidence or intelligence that he/she is intending to commit an offence abroad, the police could apply to the court for a foreign travel order which can prevent an offender travelling to a particular country or from travelling at all.

Section 91 of the Sexual Offences Act provides that a person who is subject to the notification requirements commits a criminal offence if he/she fails, without reasonable excuse¹, to:

- Make an initial notification;
- Notify a change of details;
- Make an annual re-notification;
- Comply with any requirement imposed by regulations concerned with the notification of foreign travel;
- Allow police officers to take his photograph or fingerprints; or
- If he/she knowingly provides false information.

¹ A 'reasonable excuse' for failing to comply with the notification requirements could be, for example, where the offender is in hospital.

An offender convicted of such an offence on summary conviction (in a magistrates court) will be liable to a term of imprisonment of up to six months or a fine or both; an offender convicted on indictment (in a crown court) will be liable to a term of imprisonment of up to five years. Breach of the requirements is an arrestable offence.

The notification requirements are an automatic consequence of a conviction or caution, but the length of time an offender will be subject to the requirements will vary dependent upon the sentence they are given. The duration of the notification requirements (or how long a person is on the Sex Offender Register) is set out in the Sexual Offences Act 2003 and the courts have no discretion over this.

The notification requirements form an invaluable tool to the authorities in providing a robust framework for managing sex offenders, which plays an integral role in the MAPPA (Multi Agency Public Protection Arrangements).

Recent figures indicate that there are 53,501 offenders in England and Wales who are subject to notification requirements² (commonly referred to as the sex offenders' register). Of these, approximately 28,667 are subject to the notification requirements for an indefinite period³.

Public protection is a key priority for the Government and we continuously work with the police and other law enforcement agencies to ensure that the right tools and powers are available for the authorities to tackle serious sexual crimes and bring perpetrators to justice.

The police along with a number of other public protection agencies and organisations, including CEOP (Child Exploitation and Online Protection Agency) and ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children of Sexual Purposes), argue that extending the notification requirements will close loop holes and enable offender management to be more effective. In order to prevent offenders from exploiting gaps in the system, the preferred option outlined in this Impact Assessment will extend the existing notification requirements to require registered sex offenders to:

- Notify the police of all foreign travel (including travel outside of the UK of less than 3 days);
- Notify weekly where registered as having 'no fixed abode' (i.e. where a registered sex offender has no sole residence and instead must notify the police of the place where they can regularly be found);
- Notify where living in a household with a child under the age of 18;
- Notify the police of passport, credit card, and bank account details and provide the police with proof of identification at each notification.

A.2 Groups Affected

The proposal as set out in this Impact Assessment will have effect in England and Wales only.

The main groups affected by these proposals are:

- Registered Sex Offenders;
- Police forces;
- Ministry of Justice (MOJ);
- Agencies that make up the responsible authority (police, prison, probation) and agencies with a duty to co operate under the Multi Agency Public Protection Arrangements;
- Her Majesty's Courts and Tribunal Service;
- Crown Prosecution Service;
- Legal Services Commission;
- National Assembly for Wales;
- Victims of sexual crime; and
- Members of the public.

² These figures are taken from the Violent and Sex Offender Register (ViSOR) and are accurate as at January 2012

³ These figures are taken from the Violent and Sex Offender Register (ViSOR) and are accurate as at January 2012

A.3 Consultation

This final stage Impact Assessment and Equality Impact Assessment has been constructed following the 'Reforming the Notification Requirements of Registered Sex Offenders (Part 2 of the Sexual Offences Act 2003): A Targeted Consultation' a consultation exercise which sought to explore fully the potential impact of these proposals on all affected groups.

The targeted consultation, which sought views on the recommended policy options for strengthening the existing notification requirements regime for registered sex offenders, ran for an eight week period from 14th June 2011 until 8th August 2011.

Consultees were invited to offer their views and comments on the policy options outlined, supporting evidence and associated costs and benefits, whether quantitative or qualitative.

The consultation exercise also sought to explore the transitional arrangements that would be required following introduction of legislation, to make sure that all registered sex offenders are made aware of the new requirements they will become subject to. The comments received in relation to transitional arrangements have been taken into account and have informed the decision on transitional arrangements as outlined in option 2, page 12 of this Impact Assessment.

Although we specifically sought the views of directly affected parties, including practitioners, other Government departments and organisations with a direct interest in the management of sexual offenders, the consultation was available on the Home Office website and we welcomed the comments we received from members of the public.

All of these comments have been taken into account in the development of this policy and this final stage Impact Assessment. Based on our findings it remains our consideration that each of the four proposals are proportionate and necessary steps to enable the police to more effectively and robustly manage sex offenders and prevent them from exploiting gaps in existing legislation. Comments received as part of this consultation are noted within Section D 'Options', with costs, risks and benefits outlined within Section E 'Appraisal'.

'Reforming the Notification Requirements of Registered Sex Offenders (part 2 of the Sexual Offences Act 2003): summary of consultation responses and conclusions' provides a fuller breakdown of the responses received as part of the consultation and summarises how consideration of the findings has influenced the final policy.

B. Rationale

The Home Office works closely with the police, CEOP (Child Exploitation and Online Protection Agency) and other public protection agencies to ensure that the risk posed to the public by serious offenders, both in the UK and overseas, is minimised and that such offenders are robustly and effectively managed. The police and others have made a number of recommendations to the Home Office, identifying areas of the existing legislation which need to be addressed to prevent offenders from exploiting gaps in the system. It is considered that four key areas, which formed the basis of the consultation discussion and which are outlined within this Impact Assessment, are priority areas. Following consultation, it is our view that legislative changes to widen the notification requirements to include these aspects is a necessary and proportionate step to enable the police to ensure the effective management of serious sexual offenders, providing them with intelligence they need to take preventative action, where appropriate.

It is envisaged that implementation of the policy recommendations in relation to each of the four key areas, which formed the basis of the consultation paper, Reforming the Notification Requirements of Registered Sex Offenders (Part 2 of the Sexual Offences Act 2003): A Targeted Consultation, would have a downward impact on sexual re-offending and reconviction, and that together they form a package of reforms which will strengthen the overall arrangements for police management of registered sex offenders.

C. Objectives

The objective of the recommended policy option outlined in this Impact Assessment is to strengthen the notification requirements regime, providing the police with important intelligence allowing them to more robustly manage registered sex offenders and prevent them from exploiting gaps in the existing legislation to cause harm both in the UK and overseas.

Four priority areas have been identified as essential to achieve this objective. These include extending the existing notification requirements to require registered sex offenders to:

- i) notify the police of all foreign travel (including travel outside the UK of less than 3 days);
- ii) notify weekly where registered as having 'no fixed abode' (i.e. where a registered sex offender has no sole or main residence and instead must notify the police of the place where he can regularly be found);
- iii) notify where living in a household with a child under the age of 18; and
- iv) notify the police of passport, bank account, and credit card details and provide the police with proof of identification at each notification.

D. Options

Option 1 is to make no changes (do nothing).

There are approximately 53,501 sex offenders registered on ViSOR. The number of offenders living in the community has increased by an average of four per cent annually since 2005/06 (MAPPA annual report 2008/09). Currently, it is necessary for all registered sex offenders to notify police of their name, date of birth, and National Insurance number, as well as keeping police informed of changes to their address and any trips made outside the UK lasting more than 3 days.

The number of offences committed overseas by sex offenders subject to notification requirements in England and Wales is not known as data in this area are poor. However, evidence from ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children or Sexual Purposes) suggests that British sex offenders are exploiting the known loophole in the notification requirements by travelling abroad for fewer than 3 days to commit a sexual offence. Currently, registered sex offenders are not required to notify the police of their intent to travel abroad for a period of 3 days or less. The police, therefore, cannot inform the Serious Organised Crime Agency and the police in destination countries. Police officers currently spend time and resources tracking and monitoring offenders who register as having no fixed abode as they are only required to notify annually. While they are required to notify whenever their details change, this is substantially more difficult to enforce when these details refer to a place at which they can be regularly found rather than a sole or main address.

The police are currently also unaware, in many cases, of whether a registered sex offender is living at the same address as someone under the age of 18.

Unlike Scotland, the police in England and Wales do not collect passport, credit card, or bank account details and so cannot use this information to monitor offenders further and try to detect whether they are using another identity.

Option 2 to amend existing legislation to widen the range of information that registered sex offenders are required to provide to the police.

It is not envisaged that these proposals would add a significant or disproportionate burden, either to offenders in completing notifications or to the police in managing offenders, but that the changes will provide the police with important information which will assist in the effective management of sexual offenders. To ensure that any changes we make are proportionate and reasonable to achieve this aim we undertook a targeted consultation seeking views on how this information could most easily be provided, and outlining where we anticipated that this would form a part of the periodic notification or whether it will introduce a new or additional burden. The consultation

document also outlined where and how we expected the proposals to have an impact, particularly in terms of police and other public bodies' resources and we invited comments on this.

In light of all the comments received in response to the consultation we remain satisfied that each of the four proposals will significantly enhance the tools currently available to the police and strike a fair balance between an individuals rights and ensuring public protection. 'Reforming the Notification Requirements of Registered Sex Offenders (part 2 of the Sexual Offences Act 2003): summary of consultation responses and conclusions' provides a fuller account of our findings.

The Secretary of State will exercise existing powers under the Sexual Offences Act 2003 to make regulations, which would be subject to the affirmative resolution procedure, to introduce the necessary legislative changes.

The estimated costs and benefits to this proposal are set out in Section E (Appraisal) below.

i) Notify the police of all foreign travel (including travel outside of the UK of less than 3 days)

Under existing legislation, registered sex offenders are required to notify the police of any travel outside of the UK which is for 3 days or more. The restriction to travel of 3 days or more is considered to be a loophole that can be exploited to enable sex offenders to travel overseas for periods of less than 3 days to commit serious sexual offences. The police, along with a number of other public protection agencies and organisations, including CEOP (the Child Exploitation and Online Protection Agency) and ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes), have strongly lobbied for this to be revised to require notification of all foreign travel.

Views were obtained through the consultation on the Government's proposal to amend existing legislation to require offenders to notify all foreign travel. The consultation demonstrated it would allow the police to build a comprehensive picture of all foreign travel by an offender to identify risk, and that it is a proportionate step to take to ensure that those offenders who do seek to use this legislative 'gap' to commit harm, both in the UK and overseas, are prevented from doing so. The consultation responses expressed strong support for this proposal and agreed with the Government's recommendation that this legislative change was an important and proportionate step to safeguarding children both nationally and internationally.

This change would require additional notifications to be made to the police and estimated volumes, and associated costs, are set out below (Section E). The consultation invited views on suggested approaches to implementation that could be taken to ensure that the additional burden that is imposed on the offender (and the impact on resources to the police in administering the additional notifications) is kept to a minimum. We asked whether it would be considered appropriate to include provision for advanced notification where the purpose of travel is business or work related. There was agreement that advanced notification for business or work related travel would strike a fair balance and would reduce the impact on those who are required to travel for work. Respondents also expressed opinions in relation to notification of travel in an emergency; for example the bereavement of a relative and their concerns over the enforcement of this as by its very nature emergency travel is often at short notice and may not allow for advance notification at a prescribed police station. It is accepted that this situation needs to be clear within the guidance to ensure it can be applied in practice.

Police forces had provided the Home Office with anecdotal evidence to suggest that this legislative change would, in addition to providing a comprehensive picture of when an offender is travelling outside of the UK, prevent difficulties that currently arise whereby registered sex offenders may be re-entering the UK for up to 3 days without the authorities being aware of their presence in the UK, a situation which has implications for the management and the investigation of offences (such an offender could be a suspect but not identified as police would not be aware they were in the UK). We also received further examples from forces of where the notification of all foreign travel would have furnished the police with intelligence to detect and prevent criminal offences.

ii) Notify weekly where registered as having 'no fixed abode'

Under existing legislation, where a registered sex offender has no sole or main residence they must instead notify the police of the place where they can regularly be found. They must do this during their periodic notification or whenever their details change.

Provisions within the Criminal Justice and Immigration Act 2008 require that, where an individual is the subject of a Violent Offender Order (VOO) and is required to notify their details to the police by virtue of that order, if an offender does not provide a UK home address or a UK residence, but instead gives the address or location of a place where they can regularly be found, the offender must make the periodic notification of their details weekly instead of annually.

Within the consultation document, Reforming the Notification Requirements of Registered Sex Offenders (Part 2 of the Sexual Offences Act 2003): A Targeted Consultation, the Government sought views on the proposals to amend existing legislation to require registered sex offenders who have no sole or main residence to notify weekly to the police, bringing provisions in line with notification arrangements for other types of serious offenders.

It is estimated that less than 1% of the registered sex offender population is recorded as having 'no fixed abode' and is therefore considered that the proposed change will have a minimal impact on police resource but will allow the police to have greater contact with the offender and be better placed to assess risk. Furthermore, it is likely to minimise the risk of registered sex offenders seeking to 'exploit' the no fixed abode situation and encourage registered sex offenders to provide the police with a fixed address rather than face the increased inconvenience of weekly reporting. The consideration was supported by respondents, who concurred that this proposal would act as a deterrent. It is expected that the additional police resource required to complete weekly notification for those who continue to register as having no sole or main residence will be offset to a significant degree by the saving to police time in investigating the whereabouts of such offenders who have failed to comply with the notification requirements and will ensure that the police are more able to establish a comprehensive picture of the whereabouts of such offenders which will in turn enable them to manage more effectively the risk posed by such individuals.

The consultation document aimed to explore these points further and we invited views on how best to minimise the additional burden, including how to make the process as simple as possible. For example, whether it would be appropriate to include a section within the [notification] form to capture that 'details remain the same as last week'. This would ensure that despite the increased frequency, more regular, individual notifications could be processed quickly and would be less resource intensive than the periodic (annual) notification. It was agreed by partners involved in the daily management of offenders that a simplified notification form would strike a fair balance for both offenders and police by enabling them to reduce resource implications whilst maintaining the ability to obtain the most crucial information as details will often remain the same due to the frequency of notification but that weekly contact remained imperative.

iii) Notify where living in a household with a child under the age of 18

There is no requirement under existing legislation for registered sex offenders to notify when they are residing or staying with a child under the age of 18. The police consider that a requirement to do this would ensure that they are better able to identify and focus resource on preventing harm to children who may be at risk from an offender. It is recognised that this policy would require individuals to notify, for example, when they reside with their own child or siblings who are under the age of 18. However, notification of residence with a minor will not automatically preclude an offender from staying at the notified address.

The consultation sought views on whether this proposal was a proportionate step to take in the safeguarding of children, following this it is still considered that the introduction of this additional requirement would add very little burden, either to registered sex offenders or to police forces. Other than in circumstances where an offender changes address (which would be notified to the police anyway), this would form a part of the information provided to the police within the periodic notification. The consultation exercise explored this proposal further and sought views on whether it is considered a proportionate means by which the police can gain information which will give them a better picture to assist in the identification of cases where children may be at risk, and ultimately, if appropriate, enable them to intervene. Respondents agreed and provided additional comments advising that this proposal would also allow for more informed risk assessments to be undertaken

and in turn the development of more effective and appropriate management plans including deciding if the use of civil orders is proportionate.

The consultation gave the opportunity to obtain opinions from partners to enable us to explore the practical application of this proposal. Comments received were supportive whilst identifying that the meaning of 'living' or 'residence' needed to be clearly defined to ensure it could be applied effectively and would not have a disproportionate impact on an offender's ability to stay at locations where they could not be expected to know in advance a child was resident such as hotels. This issue is addressed within the summary of responses and conclusions document.

During the consultation process we sought the views of those involved in the management of under 18 offenders as it is accepted that they may be living with siblings or within care facilities where other minors are resident. It was considered that this proposal did not disproportionately impact on those offenders who are under 18 and the assessment of risk posed by all offenders was a necessary step.

iv) Notify the police of passport, bank account, and credit card details and provide the police with proof of identification at each notification

Existing legislation provides that it is an offence for a registered sex offender to fail to notify the police of any change to their personal details, including a change of name (section 84 of the Sexual Offences Act 2003). This is punishable by up to 5 years imprisonment.

In relation to possible measures to strengthen the detection of offenders who fail to comply with this requirement in an attempt to evade the system, the consultation exercise sought views on introducing a requirement for offenders to produce identification documents upon notification and a requirement for offenders to notify the police of passport, bank account, and credit card details. It was acknowledged in feedback received that the provision of this information would aid the police in the detection of offenders who fail to comply with notification requirements. By virtue of the Police, Public Order and Criminal Justice (Scotland) Act 2006 and The Sexual Offences Act 2003 (Notification Requirements) (Scotland) Regulations 2007, Scotland introduced legislation requiring offenders to notify passport, bank account, and credit card details. Introducing these requirements here would ensure a consistent approach. We have received anecdotal evidence from Scotland which supports the consideration that the provision of these details will assist in locating 'missing' offenders and assist police in bringing them back within management.

The consultation invited views on the provision of bank and credit card details and whether it was considered to be a proportionate step. Concerns were expressed regarding the secure handling and management of personal data and the impact this proposal would have on third parties through the requirement to provide joint and business account details. It is considered that current legislation governing the safeguarding of protect personal data (for example, the Data Protection Act 1998) in conjunction with robust internal data handling arrangements will ensure that the handling of personal data is subject to robust constraints, as outlined further within the summary of responses and conclusions document.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

The following appraisal considers the costs and benefits occurring over and above those associated with the 'do nothing' option. Each extension of the notification requirements will be addressed in turn, with the costs, benefits, and risks analysed. General assumptions used throughout the analysis will be set out first, with any additional assumptions discussed as they arise.

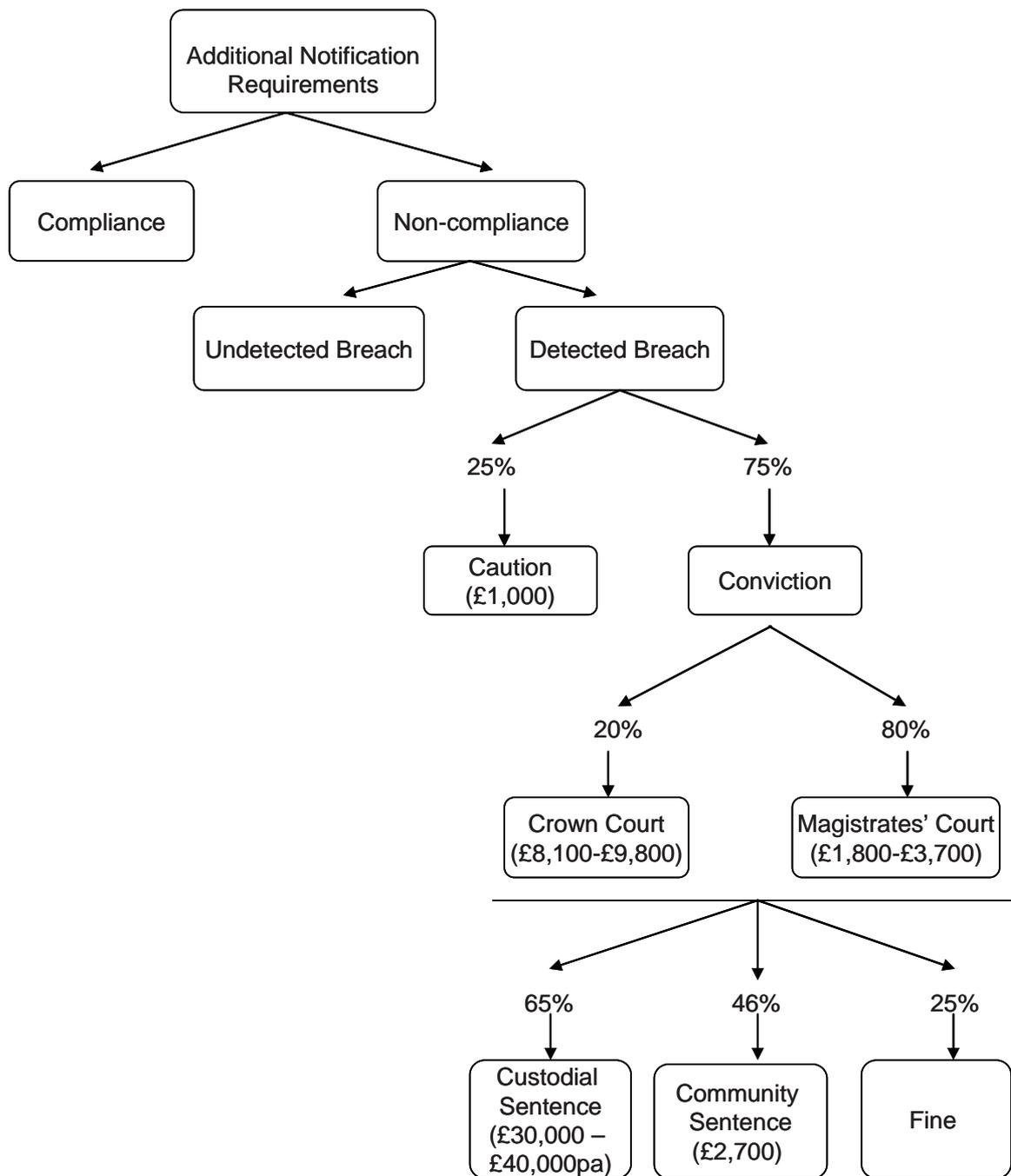
Figure E1 below illustrates the possible outcomes related to extending notification requirements, demonstrating the assumptions made and the costs associated with each stage. The assumptions and unit costs of each part will be further discussed throughout this section. If offenders comply with the widened notification requirements, additional notifications will bear resource costs to the

police. These have been estimated in the subsections relating to each extension of the notification requirements below in turn. Additionally, the police may bear costs related to enforcement, which have not been quantified due to a lack of data. If offenders do not comply with the additional notification requirements, and breaches of notification requirements are detected, costs may be incurred by the police, Crown Prosecution Service, HMCTS, Legal Services Commission, prison services, and probation services.

It has not been possible to quantify fully the impact extending notification requirements will have on the volume of breaches due to uncertainty around offenders' behaviour regarding compliance. The information published in the MAPPA annual report provides the number of cautions or convictions for breaches of notification requirements. Disaggregated data is not available. It is not possible to assess whether these cautions/convictions are a consequence of offenders missing the annual notification or providing false information, or whether all or only parts of the notification requirements are breached. Therefore, it has not been possible to predict what impact extending notification requirements may have on the volume of breaches. However, for illustrative purposes, the number of breaches receiving a caution or conviction has been used to determine an average breach rate, assuming that each sex offender breaching only breaches once.

Costs related to detected breaches have only been estimated in relation to extending the notification to require all foreign travel to be notified and weekly notification for those registered as having no fixed abode. It has not been possible to quantify downstream costs relating to offenders having to register when living with a child under the age of 18, or having to notify passport, bank account, and credit card details.

Figure E1: Process and Assumptions – Extending notification requirements



Assumptions

Future **volumes** of sex offenders on the Violent and Sex Offender Register (ViSOR) living in the community have been predicted using the trend in volumes reported in the MAPPAs Annual Reports since the introduction of the register. There has been an average annual increase of four per cent since 2005/06 and this has been held constant over time throughout this analysis. This may prove to be an overestimate depending on the implementation of the review of offenders subject to indefinite notification requirements, a result of the R v F & Thompson ruling. This could potentially lead to some offenders being removed from ViSOR and a smaller population of Registered Sex Offenders (RSOs) living in the community.

Except in the case of notifications for offenders of no fixed abode and notification of passport and bank account details, it has been assumed that each additional **notification** of information to the police as a result of the proposed extension of the notification requirements will require 45 minutes⁴ of police time to complete. An hour of police officer (sergeant or below) time is expected to cost approximately £35 so a 45 minute notification will therefore cost approximately £26.⁵ For those

⁴ It has been assumed from anecdotal police evidence that updating records on ViSOR requires approximately 45 minutes of police time.

⁵ Assuming it is completed by a police officer of sergeant rank or below. These unit costs are based on hourly police costs estimated in 2008, which rely heavily on ASHE (Annualised Survey of Hours and Earnings) and CIPFA (Chartered Institute of Public Finance and Accounting) data. The underlying data has not been updated, the hourly cost estimates have simply been updated to account for inflation using the Treasury GDP deflator series.

offenders registered as having no fixed abode and so having to register weekly as well as for the collection of passport and bank account details, it is assumed that these notifications will require 15 minutes⁶ of police time, therefore costing approximately £10.

Police officers conduct **home visits** to RSOs regularly. The frequency of visits is fixed and determined by the risk category assigned to the RSO on initial conviction as outlined in Table E.1 below. It has been assumed that each additional home visit to an RSO by a police officer will require 2 hours of police time⁷ to complete, therefore costing approximately £70.

MAPPAs guidance (2009) suggests that police officers should aim to visit registered sex offenders at their registered address at the following frequency:

| Risk | Per Year |
|-------------|-----------------|
| Very High | 12 |
| High | 4 |
| Medium | 2 |
| Low | 1 |

A rate of detected **breaches** of 4.6 per cent⁸ is used throughout this Impact Assessment. While this is certainly a lower bound estimate of the overall breach rate, it is used as a proxy since implicitly data cannot be available on undetected breaches. The measures covered in this Impact Assessment are designed to close known loopholes currently exploited by RSOs as well as providing police with the information they need to manage offenders effectively; as such it is not anticipated that they will affect the current level of compliance with the notification requirements. It is also likely that they will lead to an earlier detection of breaches. PNC analysis shows that 25 per cent of those found to be in breach of their notification requirements are cautioned and the remainder are convicted. It is assumed that all breaches that are detected result in either a caution or conviction, allowing no possibility for a breach not to be prosecuted or for a defendant to be found not guilty. This is due to the lack of data available on police detection of breaches; the available data are from the MAPPAs annual report which details the number of RSOs cautioned or convicted for breaching their notification requirements. This may lead to an overestimate of the number of sentences and an underestimate of police time required dealing with breaches.

From anecdotal police evidence, it has been assumed that a **caution** for breach of the sex offender notification requirements requires 23 hours of police time in resources as well as the use of a police station duty solicitor⁹ but creates no additional burden on the CPS or the courts. A **conviction** for breach of licence is assumed to require 34 hours of police time, as well as 2 hours of court time¹⁰, Crown Prosecution Service (CPS) resource, and legal aid¹¹ when the defendant pleads **not guilty**.

Crown Court statistics show that in 2009 almost 70 per cent of all defendants prosecuted for all offences entered a guilty plea. This has been used as a proxy for the percentage of sex offenders in all courts **pleading guilty** for breaching their licence. It is assumed that this requires 23 hours of

⁶ Amendments to ViSOR will be made enabling these, more regular, notifications to be shorter than the periodic notifications requiring 45 minutes of police time.

⁷ This assumption is based on anecdotal police evidence.

⁸ MAPPAs Annual Report 2009/10: the average rate of detected breaches for 2005/06-2009/10 was estimated as the number of RSOs cautioned or convicted for breaching their notification requirements as a percentage of the total number of RSOs living in the community.

⁹ Assumed to be available to all those interviewed, either in the form of a solicitor attending a police interview with the suspect or via a telephone helpline. The cost is calculated as an average across all suspects and forms of legal aid.

¹⁰ Estimate from HMCTS of the court time required for breach of a Football Banning Order. It is assumed that hearings in either Magistrates' or Crown Court are equal in length.

¹¹ It is assumed that 50% of defendants are eligible for legal aid in Magistrates' Court hearings (Eligibility for criminal legal aid at the magistrates' court depends on the applicant satisfying both the 'Interests of Justice' test and the financial eligibility test. MOJ estimate that of those who apply 100% of alleged perpetrators would be able to satisfy the IoJ, with 90% of that tranche also passing on means. However, many would note the eligibility criteria and not apply so an estimate of the total offender population that would be eligible is 50%), and 100% of defendants are eligible for legal aid in Crown Court hearings. This also includes access to a police station duty solicitor which is available to all suspects interviewed by police. It is assumed 100% of breaches require this form of legal aid.

police time¹², together with 30 minutes of court time¹³, CPS and legal aid costs as for not guilty pleas.

It is possible for those convicted for breaching their licence to have their cases heard in the Crown Court. Statistics from the Ministry of Justice suggest that approximately 20 per cent of hearings take place in the Crown Court. This has been incorporated into this Impact Assessment, taking account of the different unit costs¹⁴ for a Crown Court and for a Magistrates' Court.

Breach hearings carry a maximum sentence of 5 years imprisonment. PNC analysis shows that approximately 65 per cent of those in court for breaching notification orders are given a custodial sentence. It is possible to receive more than one disposal per breach so in addition 24 per cent receive fines, and 46 per cent receive community sentences. The average length of custodial sentence given at a Magistrates' Court is 2.5 months while at a Crown Court is 7.6 months¹⁵. It is assumed that 50 per cent of this sentence is actually served¹⁶. The unit cost of a prison place is approximately £30,000 per year until the end of the Spending Review period¹⁷ and £40,000 per year thereafter. The remaining 50 per cent of the custodial sentence is served on license and incurs probation costs of approximately £2,800 per place per year. The unit cost of a community sentence is £2,700¹⁸ and falls to the Probation Service. It is assumed that a proportion of fines issued will require enforcement, however it has not been possible to estimate this proportion, nor has it been possible to estimate the cost the enforcement of fines relating to breach of sex offender notification requirements. It is likely that costs will be incurred in the enforcement of fines but given the small volume of breaches and that only 24 per cent of disposals issued are fines, the cost is thought to be minimal. The average sentence cost, taking into account the probability of receiving each disposal, is £5,000. This unit cost has been applied to all breaches resulting in conviction.

Generally it has not been possible to quantify the benefits of the policy as it is not possible to quantify the impact that the notification requirements have on offending. However, a break-even analysis has been conducted using the prevention of a sexual offence as the outcome of extending sex offender notification requirements. The cost of a sexual offence is £35,840¹⁹, which is the average across all offences, both those that are recorded and those that are not, committed against those over the age of 16. As such, it could be an underestimate of the physical and emotional costs of a sexual offence committed against a child. The number of offences required in order for the policy to break even is also expressed as a percentage of the number of sexual offences recorded in 2010.

Source of unit cost estimates

Unit cost estimates for the CPS and HMCTS have been provided by the Ministry of Justice. Legal aid costs are based on statistical information published by the Legal Services Commission (LSC statistical information 2010/11). Police costs are estimated from ASHE (Annualised Survey of Hours and Earnings) and CIPFA (Chartered Institute of Public Finance and Accounting) data (2008) and have been updated to account for inflation using the Treasury GDP deflator series.

OPTION 2 – Implementation of Extensions to Notification Requirements

Implementation of all proposals requiring RSOs to notify the police of all foreign travel, notify weekly where registered as having 'no fixed abode', notify where living with a child under the age of 18, and notify the police of passport, bank account, and credit card details.

Transition Costs

¹² Less than for a not guilty plea as police presence is not required at court.

¹³ Estimate from HMCTS of the court time required for breach of a Football Banning Order. It is assumed that hearings in either Magistrates' or Crown Court are equal in length.

¹⁴ Including CPS, HMCTS, and legal aid (LSC) costs

¹⁵ From Ministry of Justice statistics, this is the best estimate of average sentence lengths of those sentenced each court from 2004-2009. For the cost of a custodial sentence it is assumed that 50 per cent of this sentence is served, the remainder is assumed to incur probation service costs.

¹⁶ This is a standard CJS assumption that half of a custodial sentence is served in prison and the other half on license

¹⁷ Ministry of Justice figures - £30,000 per place per year until the end of the spending review period and £40,000 per place per year thereafter.

¹⁸ Ministry of Justice figures - £2,700 per offender until the end of the spending review period and £2,600 per offender thereafter/

¹⁹ Home Office Costs of Crime estimates, updated to 2009/2010 – this includes the costs of in anticipation, as a consequence, and in response to crime. These costs fall to the police, the CJS system, and the victims themselves.

The transition costs include informing RSOs of the changes to the notification requirements, issuing guidance to the police regarding the changes, making amendments to ViSOR, and collecting the bank account and passport details of RSOs living in the community at the time of implementation and so already subject to notification requirements. The majority of these costs will be borne as a result of informing RSOs of the changes to the notification requirements. It is suggested that a letter be sent to all RSOs living in the community asking them to attend a police station, where the changes to the notification requirements will be explained. It is assumed that drafting and sending the letter will require 5 minutes of police time per RSO and 30 minutes of police time to explain the changes. This will cost a maximum of approximately £800,000²⁰ as it is likely that implementation of the policy will coincide with some RSOs periodic notifications or notifications made when details change.

Guidance will be issued or amended to inform the relevant groups of the changes and amendments to the ViSOR will be required. The costs of this are thought to be between £50,000 and £70,000²¹.

Collection of passport, credit card, and bank details

In order to bring the notification requirements in England and Wales in line with those in Scotland, it is proposed that RSOs will need to register their passport, credit card, and bank details with the police when they periodically notify. There will be a transition cost to the police in terms of time updating ViSOR for all those offenders already on the register, and living in the community, when the policy is implemented. For all new offenders added to the database, this will form part of their initial notification process and will, therefore, not represent a transitional cost but an annual recurring cost, which will be covered at a later stage in this section. Assuming notification requires approximately 15 minutes of police time, to verify the information provided and update ViSOR with the additional information for the 39,300 offenders estimated to be living in the community and subject to the notification requirements at the time of implementation, it is likely that this will cost approximately £340,000²².

The total transitional costs are estimated to be approximately £1.2 million.

Annual Costs and Benefits

(i) Foreign travel

Costs

There were 5,438 notifications of foreign travel in the year to 6th January 2011 which, assuming this is one trip per RSO²³, represents 15 per cent of RSOs travelling abroad for more than 3 days²⁴. This percentage has been applied to the estimated volume of RSOs expected over the ten year appraisal period.

It is assumed that the proportion of trips over and under 3 nights in length for RSOs is the same as that for the general population. Figures for the general population have been taken from the International Passenger Survey (IPS Travel Trends 2009), which shows that 77 per cent of travel is for more than 3 nights. It should be noted, however, that there may be some discrepancy due to the distinction between 3 day and 3 night stays. The current legislation specifies visits that are longer in duration than 3 days must be notified, while the IPS refers to travel of 3 nights or more. This is, however, the best available proxy.

Using these assumptions, the number of additional notifications and related costs estimated as a result of the proposed extension to the notification requirements is presented in the table below.

| |
|---|
| Table E.2 Estimated volumes and costs of additional foreign travel notifications |
|---|

²⁰ Assuming all RSOs attend a police station to have the changes explained to them. This is assumed to be (5+30)/60 multiplied by the number of RSOs in the community at the time of implementation (approximately 39,300) requiring 22,900 minutes (380 hours) of police time.

²¹ Using costs for similar guidance issued.

²² It is assumed that 100% of RSOs have a passport and bank account, which may be an overestimate.

²³ Due to a lack of data to inform this, one trip per RSO had to be assumed in order to use available information on the number of visits together with the predicted volume of RSOs over time. It is, however, possible that a smaller proportion of RSOs commit all foreign travel. If this were the case, the volume of foreign travel may be less responsive to changes in the volume of RSOs over time.

²⁴ Based on the number of foreign travel notifications as a percentage of the number of RSOs on ViSOR in the year to 6/1/11.

| Year | Additional Notifications ²⁵ | Costs (£m) |
|---------------------------------------|--|---------------|
| 0 | 1,700 | £0.04 |
| 1 | 1,700 | £0.05 |
| 2 | 1,800 | £0.05 |
| 3 | 1,900 | £0.05 |
| 4 | 2,000 | £0.05 |
| 5 | 2,000 | £0.05 |
| 6 | 2,100 | £0.06 |
| 7 | 2,200 | £0.06 |
| 8 | 2,300 | £0.06 |
| 9 | 2,400 | £0.06 |
| Additional annual average cost | | £0.05m |

The volumes and associated costs presented in table E.2 above may well be an underestimate. The volume of additional notifications is based on the number of notifications of travel currently made to police and does not include foreign travel where no information was provided to police in advance in breach with notification requirements. Implicitly this, therefore, assumes that compliance with notification requirements for travel outside the UK of 3 days and less will be equal to compliance with notification requirements for travel outside the UK of 3 days and more.

4.6 per cent of the RSO population are found to breach their requirements each year, which PNC analysis shows is mainly through offenders not notifying rather than providing false information. It therefore seems reasonable to assume that a proportion of those cautioned or convicted for breaching their notification requirements will have failed to notify police of their foreign travel and, as such, the volume of additional foreign travel notifications estimated above should be seen as a lower bound of potential costs to police resources.

Given the assumptions regarding the cost of notifications outlined above, the average annual additional cost to the police as a result of the additional notifications is estimated to be £0.05 million.

Applying the breach rate of 4.6 per cent to the volume of additional notifications gives the volumes of breaches set out in the table below. PNC analysis suggests that 25 per cent of breaches are taken forward as cautions, so these volumes have also been estimated. Based on Ministry of Justice statistics, 20 per cent of offenders are dealt with in the Crown Court. The process of handling breaches can be seen previously in the Figure E1.

Estimated volumes, and associated costs, of additional breaches of foreign travel notification requirements are presented in Table E.4 below. Due to the assumptions made above, these should be treated as lower bound estimates.

| | Additional breaches | Of which: Cautioned | Convicted - MC | Convicted - CC | Cost (£m) |
|---|---------------------|------------------------|----------------|----------------|--------------|
| Average annual | 90 | 20 | 60 | 10 | £0.6 |
| Present value cost (over 10 years) | | | | | £5.3m |

Note: figures by not sum due to rounding

The cost of a caution is approximately £1,000, representing over 20 hours work for the police in writing a crime report, gathering evidence and statements, making arrest enquiries and arrests, and interviewing offenders. This also includes approximately £210 for a police station duty solicitor provided to all suspects when interviewed by police and funded by the Legal Services Commission (LSC)²⁷.

²⁵ These figures have been rounded to the nearest hundred.

²⁶ Includes costs to police, HMCTS, CPS, and legal aid, prisons, and probation. Figures may not sum due to rounding

²⁷ Unit cost taken from Legal Services Commission statistical information 2010/11. this is the average cost per suspect of legal aid required at the police station and covers both an on call solicitor attending the interview as well as access to a telephone helpline.

The total cost of proceeding with a conviction in a Magistrates' Court to all agencies involved²⁸ is approximately £3,400 if the defendant enters a not guilty plea; this includes almost £1600 in court costs²⁹, £1,200 in police costs³⁰, £150 in CPS costs, and £450 in legal aid costs. It is assumed that fewer RSOs prosecuted for breach of the notifications requirements related to foreign travel will be eligible for legal aid under a financial eligibility test³¹ than the general population as they are less likely to have a disposable income of less than the stated amount and afford foreign travel. However, it is not possible to quantify what proportion of RSOs prosecuted for breach will be eligible so the proportion for the general population has been used with the caveat that it is likely to be an overestimate of the legal aid requirements for this part of the policy. It is assumed that all breaches will require a police station duty solicitor. If the defendant enters a guilty plea it is assumed that less court time will be required, costing approximately £400³². Less police time is also required for a guilty plea in a Magistrates' Court. It is assumed that a breach hearing with a guilty plea costs approximately £2,000 in total.

For cases heard at the Crown Court, the unit cost is approximately £9,800 if the defendant enters a not guilty plea; including almost £1,800 in court costs, £2,500 in CPS costs, £1,300 in police costs, and £4,400 in legal aid costs³³. As for the Magistrates' Court it is assumed that if the defendant enters a guilty plea less court time as well as police time is necessary. Therefore, the total cost to all agencies involved is approximately £8,100.

PNC analysis suggests that 65 per cent of court disposals relating to breaches of sex offender notification requirements are custodial sentences, 45 per cent are community sentences, and 24 per cent are fines. The average cost of disposal is over £5,000. Of these costs it is estimated that £250,000 each year will be costs to the prison service. The total volume of additional prison places required as a result of implementing the policy is considered under the total costs heading at the end of this section.

The number of appeals is not known, but anecdotal evidence suggests the proportion of cases appealed is negligible.

The volume of additional Foreign Travel Orders (FTO) granted by the courts is also not known, though it is thought to be small given the small number issued to date³⁴. It has not been possible to quantify the unit cost of obtaining a FTO due to a lack of data surrounding necessary police and court time.

The table below outlines the costs for the extension of notification requirements to all foreign travel as they fall to different agencies³⁵

| Year | Police | Courts (HMCTS) | CPS | Legal aid (LSC) | Prisons | Probation |
|------|--------|----------------|-------|-----------------|---------------------|-----------|
| 0 | £0.11 | £0.05 | £0.04 | £0.09 | £0.17 | £0.09 |
| 1 | £0.12 | £0.05 | £0.04 | £0.09 | £0.17 | £0.09 |
| 2 | £0.12 | £0.05 | £0.04 | £0.09 | £0.18 | £0.10 |
| 3 | £0.13 | £0.05 | £0.04 | £0.10 | £0.25 ³⁶ | £0.10 |

²⁸ Police, HMCTS, CPS, and LSC

²⁹ Assuming 30 minutes of court time required. Estimates of court time required are from HMCTS based on the average length of Football Banning Order breach hearing. Unit cost is taken from MoJ figures.

³⁰ Assuming 38 hours of police time required, the same time required as for a caution but with the additional of time for attending the court hearing, and CPS liaison and case preparation.

³¹ 18 per cent of defendants are eligible for criminal legal aid in a Magistrate's Court. This is based on the proportion of the general population likely to pass the means test of eligibility and might, therefore, differ for the population of sex offenders. It is assumed that, because of the foreign travel involved, none of those breaching the notification requirements will be pass the means test.

It is assumed that 18 per cent of defendants are eligible for criminal legal aid in a Magistrates' Court. This is, however, based on the proportion of the general population likely to pass the means test of eligibility and might, therefore, differ for the population of sex offenders. Amount available for non-family, non-immigration case from Legal Services Commission Statistical Information 2008/09.

³² Based on HMCTS estimates

³³ Average cost available for representation in the Crown Court, provided by Legal Services Commission Statistical Information 2010/11. It is assumed that 100 per cent of defendants are eligible for criminal legal aid in a Crown Court. This also includes the cost of a police station duty solicitor.

³⁴ 54 Foreign Travel Orders have been issued since 2005/06 (MAPPA Annual Report 2009/10)

³⁵ Police, HMCTS (Court Service), CPS, LSC (legal aid), and Prisons – this does not include the cost of other forms of disposals.

³⁶ The unit cost of a prison place changes here as it is assumed to represent the new spending review period – each prison place will cost £40,000 per year compared with the current cost of £30,000.

| | | | | | | |
|----------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 4 | £0.13 | £0.05 | £0.04 | £0.10 | £0.26 | £0.10 |
| 5 | £0.14 | £0.05 | £0.04 | £0.11 | £0.27 | £0.11 |
| 6 | £0.14 | £0.06 | £0.05 | £0.11 | £0.28 | £0.11 |
| 7 | £0.15 | £0.06 | £0.05 | £0.11 | £0.29 | £0.12 |
| 8 | £0.15 | £0.06 | £0.05 | £0.12 | £0.30 | £0.12 |
| 9 | £0.16 | £0.06 | £0.05 | £0.12 | £0.31 | £0.13 |
| Average annual cost | £0.14 | £0.05 | £0.04 | £0.10 | £0.25 | £0.11 |
| Present value cost | £1.2 | £0.5 | £0.4 | £0.9 | £2.1 | £0.9 |

Benefits

It has not been possible to quantify the benefits relating to this part of the policy. The extending of notification requirements to cover all foreign travel by RSOs is designed to tighten a known loophole in the notification requirements and is intended to provide the police with a useful tool for gathering intelligence enabling them to build a better picture of sex offender travel.

ECPAT UK's report *Off the Radar* highlights the problem of travelling sex offenders³⁷. It states that given how quick and easy it is to travel nowadays, 'British sex offenders can easily travel abroad (to European countries and beyond), commit child sex abuse offences and return home within this 3-day period.' CEOP records 20 per cent of activity by travelling sex offenders as having taken place in European countries in 2008/09³⁸, which, given proximity to the UK, suggests that activity could have taken place within 3 days and so would not currently require notifying the police. Evidence from the ECPAT UK report also suggest that there may be displacement of sex offender activity from other travelling sex offender hot spots, such as South East Asia, due to proactive measures taken by countries to combat the crimes of travelling sex offenders suggesting that travelling sex offending in Europe may increase.

The cost of one sex offence is £35,840 so the extension of notification requirements to include all foreign travel would have to prevent an average of **19** offences annually, or **162** over the lifetime of the policy in order to break even. This is an average cost of a sex offence based on the experiences of those aged 16 or over. It is possible that a sex offence against a child could incur higher physical or emotional costs to the victim, making this an underestimate of the average cost of all sex offences. The 19 sexual offences that need to be prevented each year in order for this part of the policy to break even is equivalent to **less than 0.05 per cent** of the sexual offences recorded by police in 2010/11³⁹.

Risks

As outlined, the estimated volume of additional notifications is a lower bound based on the number of notifications currently received by the police, and the travel patterns of the general population. The number of additional notifications dealt with by the police may be higher if a greater proportion of RSOs travel regularly as part of their job than the general population, leading to a greater cost on police resources.

With the full introduction of the e-Borders system and the use of passport details also outlined in this Impact Assessment, it is likely that a breach of the foreign travel notification requirements will be more easily detected. It is, therefore, likely that there will either be an increase in the number of notifications, as RSOs realise this, or an increase in the number of breaches detected.

(ii) No fixed abode

Costs

It is assumed that less than 1 per cent of registered sex offenders living in the community will be registered as having no fixed abode (NFA).⁴⁰ This is assumed to represent the baseline status quo.

³⁷ ECPAT UK, 2011, *Off the Radar*.

³⁸ CEOP Strategic Overview 2008-09.

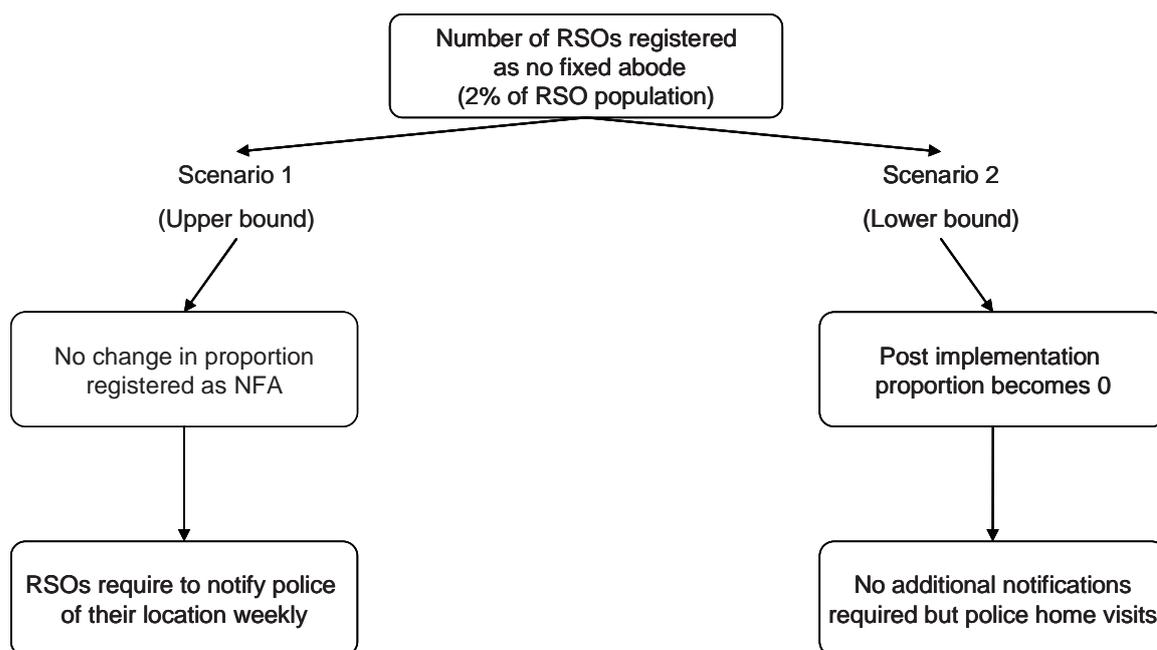
³⁹ 54,982 sexual offences were recorded by police in 2010/11. Figures available from Home Office website

<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/historical-crime-data/rec-crime-2003-2011>

⁴⁰ Based on figures from ACPO as to the number of RSOs registered as NFA at the end of September 2011

It is not known what the effect of implementing this part of the policy will be on RSO behaviour. It is possible that the proportion of RSOs with no fixed abode remains the same and all RSOs registered as NFA comply with the notification requirements. This has been assumed as Scenario 1 in Figure E3 below and is considered the upper bound in terms of costs incurred. The other end of the spectrum is that, as anecdotal police evidence suggests, the RSOs currently notifying as having no fixed abode may have addresses they could register but choose not to so as to evade police monitoring. In Scenario 2, after the policy is introduced no RSOs notify as being NFA but instead register an address and therefore require home visits at this address. This is assumed to be the lower bound.

Figure E2: Impact of introducing weekly notification requirements for sex offenders registered with no fixed abode



If the proportion of RSOs registering as having no fixed abode does not change after implementation of the policy, the volume of additional notifications and the subsequent cost to police resources will be as outlined in Table E.6 below.

| Year | Additional Notifications ⁴¹ | Costs (£m) |
|---------------------------------------|--|--------------|
| 0 | 16,000 | £0.2 |
| 1 | 16,700 | £0.2 |
| 2 | 17,400 | £0.2 |
| 3 | 18,100 | £0.2 |
| 4 | 18,800 | £0.2 |
| 5 | 19,500 | £0.2 |
| 6 | 20,300 | £0.2 |
| 7 | 21,100 | £0.2 |
| 8 | 22,000 | £0.2 |
| 9 | 22,800 | £0.2 |
| Additional annual average cost | | £0.1m |

The estimates above are based on the assumption that all RSOs currently registered as NFA are informed of the changes to the notification requirements, do not have an address they can register with the police, and fully comply with the extended requirements requiring a 15 minute notification

⁴¹ These figures have been rounded to the nearest hundred.

every week. This represents an additional 51 notifications per NFA offender each year as it is assumed they all attend their periodic notification.

If an RSO continues to register as having no fixed abode but does not notify each week then they will have breached their notification requirements. It is anticipated that the number of RSOs breaching notification requirements will continue to be low so the breach rate of 4.6 per cent has been applied to the population of RSOs who are registered as having no fixed abode. Table E.7 below sets out the volumes and associated costs of these breaches. The costs of breaching the notification requirements are assumed to be as for breaching foreign travel notification requirements with the exception that it is likely most of those offenders currently registering as NFA will be eligible for legal aid in the magistrates' court. Unlike for foreign travel notifications, it has been assumed that 100 per cent of offenders require legal aid⁴² for their breach hearings at the magistrates' court, though this could potentially be an overestimate.

| | Additional breaches | Of which: | | | Cost (£m) |
|---|---------------------|-----------|----------------|----------------|--------------|
| | | Cautioned | Convicted - MC | Convicted - CC | |
| Average annual | 20 | 5 | 10 | 3 | £0.12 |
| Present value cost (over 10 years) | | | | | £0.1m |

Note: figures by not sum due to rounding

The average sentence lengths and the average cost of disposals are as for foreign travel notification requirements, and similarly the extent to which any verdicts are appealed is not known.

It is possible, given the assumptions outlined above, that this may prove to be an underestimate of the volume of breaches as the breach rate may not be accurate for weekly notifications, however there is no evidence to suggest what the alternative might be. It is likely that, as happens currently, a proportion of RSOs do not comply with the notification requirements and as such will incur the costs outlined above. Table E.8, below, sets out the additional costs resulting from scenario 1 by the agency to which the cost falls.⁴⁴ The total volume of additional prison places required as a result of implementing the policy is considered under the total costs heading at the end of this section.

| Year | Police | Courts (HMCTS) | CPS | Legal aid (LSC) | Prisons | Probation |
|----------------------------|--------------|----------------|--------------|-----------------|--------------|--------------|
| 0 | £0.15 | £0.01 | £0.01 | £0.02 | £0.03 | £0.02 |
| 1 | £0.16 | £0.01 | £0.01 | £0.02 | £0.03 | £0.02 |
| 2 | £0.17 | £0.01 | £0.01 | £0.02 | £0.03 | £0.02 |
| 3 | £0.17 | £0.01 | £0.01 | £0.02 | £0.03 | £0.02 |
| 4 | £0.18 | £0.01 | £0.01 | £0.02 | £0.04 | £0.02 |
| 5 | £0.19 | £0.01 | £0.01 | £0.02 | £0.04 | £0.03 |
| 6 | £0.19 | £0.01 | £0.01 | £0.02 | £0.04 | £0.03 |
| 7 | £0.20 | £0.01 | £0.01 | £0.02 | £0.04 | £0.03 |
| 8 | £0.21 | £0.01 | £0.01 | £0.02 | £0.04 | £0.03 |
| 9 | £0.22 | £0.01 | £0.01 | £0.02 | £0.04 | £0.03 |
| Average annual cost | £0.18 | £0.01 | £0.01 | £0.01 | £0.04 | £0.03 |
| Present value cost | £1.6 | £0.09 | £0.07 | £0.06 | £0.32 | £0.21 |

However, if the anecdotal police evidence is accurate, it is likely that when faced with the prospect of having to notify weekly RSOs registered as NFA will instead register a permanent address. In this scenario weekly notification will not be necessary. Instead, police resources will have to be spent carrying out home visits. The frequency of home visits as outlined in MAPPA guidance is

⁴² It is assumed that those of no fixed abode will be more likely to meet the financial means test and so legal aid will amount to £473 per defendant in the Magistrates' Court and £4,200 in the Crown Court. Figures taken from the Legal Services Commission Statistical Information 2010/11

⁴³ Figures may not sum due to rounding

⁴⁴ This is not total costs of scenario 1 as forms of disposal other than prison are not included.

summarised in Table E.1 above. On average, each RSO receives 3.6 visits annually. It is assumed that each home visit requiring approximately 2 hours of police time and therefore costs approximately £70 in terms of police resource. Over a year, home visits therefore cost £250 in police resource on average per RSO.

Carrying out home visits is substantially less resource intensive than RSOs having to register weekly, which costs over £1,300 in terms of police resource annually per sex offender registered as NFA. It is likely that there will be a 14-28 day grace period after the implementation of the policy where RSOs are informed of the changes to the notification requirements and will have to start complying. It is assumed that, if Scenario 2 occurs, it will happen immediately following the changes to the notification requirements as those registered as NFA will provide an address to register on ViSOR. If the introduction of the policy means that all of those who would have registered as NFA now register an address then the police will have to carry out the number of home visits illustrated in Table E.9 below.

| Year | Additional Home Visits ⁴⁵ | Costs (£m) |
|---------------------------------------|--------------------------------------|--------------|
| 0 | 1,200 | £0.1 |
| 1 | 1,200 | £0.1 |
| 2 | 1,200 | £0.1 |
| 3 | 1,300 | £0.1 |
| 4 | 1,300 | £0.1 |
| 5 | 1,400 | £0.1 |
| 6 | 1,500 | £0.1 |
| 7 | 1,500 | £0.1 |
| 8 | 1,600 | £0.1 |
| 9 | 1,600 | £0.1 |
| Additional annual average cost | | £0.1m |

Scenario 2 represents only a cost to police resources, there are no downstream costs associated with this scenario.

The two Scenarios outlined above provide the extreme cases of the possible impact of the policy and provide a range of police costs for this option. It may be unlikely that all RSOs who are currently registered as having no fixed abode actually have an address they could register. A proportion is likely genuinely to have no fixed abode and so will continue to register as such, notifying weekly as a consequence. As this proportion is not known, it has not been possible to provide more accurate estimates of the cost to the police of additional notifications and home visits. The total costs of extending the notification requirements to cover weekly notifications to those registered as having no fixed abode are as shown in Table E.10. The best estimate has been taken as the mid-point for simplicity.

| Year | Lower bound (Scenario 2- £m) | Upper bound (Scenario 1 - £m) | Best Estimate (£m) |
|---------------------------------------|------------------------------|-------------------------------|--------------------|
| 0 | £0.1 | £0.2 | £0.2 |
| 1 | £0.1 | £0.3 | £0.2 |
| 2 | £0.1 | £0.3 | £0.2 |
| 3 | £0.1 | £0.3 | £0.2 |
| 4 | £0.1 | £0.3 | £0.2 |
| 5 | £0.1 | £0.3 | £0.2 |
| 6 | £0.1 | £0.3 | £0.2 |
| 7 | £0.1 | £0.3 | £0.2 |
| 8 | £0.1 | £0.3 | £0.2 |
| 9 | £0.1 | £0.3 | £0.2 |
| Additional average annual cost | | | £0.1m |
| Present value cost | | | £1.2m |

⁴⁵ These figures have been rounded to the nearest hundred.

Benefits

Extending the no fixed abode requirements to weekly notifications would bring the sex offender notification requirements in line with those for other offenders subject to notification requirements including violent offenders subject to VOOs (Violent Offender Orders). It should reduce police time spent in ascertaining the whereabouts of individuals between their annual notifications and monitoring of RSOs throughout the year, allowing police greater contact with RSOs so that they are better placed to assess risk. Those RSOs who are notifying as having no fixed abode are also considered to pose a greater risk and therefore would require closer management by police, which weekly notification should provide.

While it has not been possible to quantify the benefits of this part of the policy, break even analysis has been carried out on the best estimate of the costs and suggests that on average **5** offences, equivalent to **0.01 per cent of sexual offences** recorded by police in 2010/11, will need to be saved annually in order for this part of the policy to break even.

Risks

It is possible that none of the RSOs currently registering as NFA are doing so in order to avoid registering an address, which would lead to a substantial number of additional notifications and a burden on police resources.

It will be harder to inform those currently of no fixed abode of the proposed changes to the notification requirements as it may not be possible to send them a letter or make a telephone call. As a result, it is likely that breaches among this group will be higher, and as the potential to breach is quite high in the case of weekly notifications, it is possible that the number of breaches will be high particularly in the transition after the implementation of the policy.

(iii) Residing with under 18s

Costs

It is assumed that the volume of additional notifications due to this particular change will be very small as it is thought that there will be few situations in which an RSO will start living with someone under the age of 18 without their address also changing⁴⁶.

If, as a result of an offender notifying residence with an under 18 year old, the police carry out additional home visits to ensure the safety of the child, this will lead to additional costs in terms of police resource. The unit cost of a home visit is approximately £70⁴⁷.

In the most extreme case, the notification of living with a child could lead to the removal of that child from the home. The unit cost of a care order including the cost of the local authority in court fees, the cost to Cafcass for providing a children guardian and solicitor, and the cost of legal aid, is approximately £31,000⁴⁸, with local authorities spending an additional £40,000 on average per child per year on child placements⁴⁹. This is obviously highly unlikely as any approach will focus on the needs and best interests of the child involved which may not involve the removal of the child from the home.

Benefits

The extension of notification requirements to include cohabitation with an under 18 would formalise requirements already put in place by some police forces who gather similar information. It would also provide sanctions if the RSO did not comply with the notification requirements. Informing the police of the cohabitation can make sure that appropriate referrals to relevant agencies are made to protect the welfare and well-being of the child.

⁴⁶ This already requires them to notify the police of a change of their details and would therefore not represent an additional notification with respect to the status quo.

⁴⁷ Assuming it takes 2 hours of a police sergeant's time (from anecdotal police evidence)

⁴⁸ Court fees £4825, Cafcass costs £6800, legal aid £19,286 sources: MOJ, *Review of Court Fees in Child Care Proceedings*, Communitycare.co.uk, Legal Services Commission, *Statistical Information 2010/11* respectively.
<http://www.justice.gov.uk/about/docs/court-fees-child-care-proceedings.pdf>

⁴⁹ Communitycare.co.uk, though this can range between £23,500 and £56,200 per year according to a study for Barnardos by Demos (2010) *In Loco Parentis*

The average cost of a sexual offence is almost £36,000⁵⁰, this is an average over all offences; those recorded, proceeded with and prosecuted as well as those which are not. As it is an average, costs for individual cases may fall above or below this. There is also the possibility that the physical and emotional costs of a sexual offence committed against a child could be higher than for an offence committed against an individual over the age of 16, for which the average cost was quoted above.

Risks

It is possible that offenders could continue living with an under 18 and not inform the police. However, home visits carried out by police officers may discover this.

(iv) Passport, credit card, and bank account details

Costs

It is assumed that all those added to ViSOR after the implementation of the extensions to the notification requirements will require a longer initial notification so that the police can also add passport, credit card, and bank account details to ViSOR and verify the authenticity of information provided. It is assumed that this will extend initial notification by 15 minutes for all those added to the register post-implementation. Taking the net change in the number of offenders in the community on ViSOR as the upper bound, the volume, and associated cost, of effected RSOs is outlined in Table E.11 below.

| Year | Additional Notifications⁵¹ | Costs |
|---|--|-----------------|
| 0 | 0 | £0 |
| 1 | 1,600 | £13,700 |
| 2 | 1,600 | £14,200 |
| 3 | 1,700 | £14,800 |
| 4 | 1,800 | £15,400 |
| 5 | 1,800 | £16,000 |
| 6 | 1,900 | £16,600 |
| 7 | 2,000 | £17,300 |
| 8 | 2,100 | £18,000 |
| 9 | 2,200 | £18,700 |
| Additional annual average cost | | £14,500 |
| Present value cost (over 10 years) | | £121,000 |

The average annual additional cost to the police is £14,500.

It is assumed that there will not be any additional breaches as a result of extension of the notification requirements as those who turn up to the police station to notify are assumed to notify all details. Those who already do not notify the police of their details are thought to continue to do so and as such do not represent any additional breaches.

Benefits

This extension of the notification requirements will bring England and Wales in line with Scotland in terms of the information that is required when offenders initially notify. The collection of passport details will allow the police together with immigration officials to more easily detect when an RSO has breached their notification requirement by travelling outside the UK without first notifying the police. This could lead to reductions in the level of overseas offending, though there is little evidence, beyond anecdotal evidence, to support this. The collection of bank account details will allow the police to more easily track offenders between notifications or if an offender fails to present themselves at a police station for notification as activity on the account can often be linked to a geographic location.

The annual average cost of this part of the policy represents approximately 40 per cent of the cost of one sexual offence. Break even analysis has been carried out on the present value cost of this

⁵⁰ Home Office costs of crime estimates (2009 prices) average for all offences whether recorded or not.

⁵¹ These figures have been rounded to the nearest hundred.

part of the policy and suggests that **3** offences would have to be prevented over the 10 year appraisal period in order for the collection of passport and bank account details to break even. This represents **less than 0.01 per cent of sexual offences** recorded by police in 2010/11.

Risks

It is possible that offenders fail to notify these details or police fail to confirm their authenticity. The police should take the necessary steps to ensure that all data are checked and verified before being entered onto ViSOR. Data should be checked regularly to ensure they are still up to date in order to minimise the risk that data provided is incorrect.

Total costs

The total quantifiable costs of the policy to all agencies involved (present value and including transition costs) are between £7.9 million and £9.5 million. The lower bound assumes that all RSOs currently notifying as having no fixed abode find an address to register. The upper bound assumes that no RSOs currently notifying as having no fixed abode are able to find addresses to register and so must register weekly. The best estimate of total costs (present value and including transition costs) is the mid-point of the upper and lower bound, and is calculated as **£8.7 million**. The annual costs are outlined in the table E.12 below.

All estimates are based on a lower bound estimate of the volume of additional breaches resulting from offenders having to notify all foreign travel and weekly for those registered as having no fixed abode, as they are based on data relating to cautions and convictions for breaches of notification requirements and therefore do not account for breaches that currently go undetected. If extending notification requirements allows for a more robust management of registered sex offenders this may result in an increase of detections which has not been accounted for. Costs have been quantified where possible, but a substantial part of the total cost has not been quantified due to a lack of data. In particular, it has not been possible to estimate the impact on the volume of breaches resulting from requiring all offenders to register when they are living with a child under the age of 18 as well as registering passport, bank account, and credit card details. The impact on prison places rises over the appraisal period, reflecting assumptions about the increasing RSO population, but amounts to fewer than 10 prison places on average per year. This could continue to rise as the volume of sex offenders in the community increases.

| Year | Lower bound | Upper bound | Best estimate |
|---------------------------------------|-------------|-------------|---------------|
| 0 | £0.6 | £0.8 | £0.7 |
| 1 | £0.6 | £0.8 | £0.7 |
| 2 | £0.7 | £0.8 | £0.8 |
| 3 | £0.8 | £0.9 | £0.8 |
| 4 | £0.8 | £1.0 | £0.9 |
| 5 | £0.8 | £1.0 | £0.9 |
| 6 | £0.9 | £1.0 | £1.0 |
| 7 | £0.9 | £1.1 | £1.0 |
| 8 | £0.9 | £1.1 | £1.0 |
| 9 | £1.0 | £1.2 | £1.1 |
| Additional annual average cost | | | £0.9m |

Note: figures by not sum due to rounding

Total benefits

The policy is expected to generate benefits arising from the tightening of known loopholes in the notification requirements of registered sex offenders, preventing registered sex offenders from exploiting gaps in existing legislation to cause harm both in the UK and overseas. It will strengthen the notification requirements regime and will provide the police with important intelligence, allowing them to manage registered sex offenders more effectively and robustly. It has not been possible to quantify these benefits.

Additionally, the policy is expected to generate benefits in the form of police time saved actively monitoring offenders registered as having no fixed abode. This has not been possible to quantify since there is no data available on the current level of police resource spent on this. It is also expected that the policy will tighten known loopholes in the notification requirements. It has not

been possible to quantify this as the effect the policy will have on reoffending patterns and current sex offender behaviour is not known.

Break even analysis carried out on the total benefits suggests that on average of between 22 and 27 sexual offences will need to be prevented annually in order for the policy to break even, the best estimate is an annual average of **25 sexual offences prevented**. This is equivalent to **0.04 per cent of sexual offences** recorded by police in 2010/11 representing an achievable amount.

F. Risks

The specific risks associated with each part of the policy are outlined under the relevant heading in section E above. There a number of general risks associated with the assumptions made at the start of section E, particularly:

- The court time required for breach hearings in the Magistrates and Crown Courts have been assumed to be the same⁵², it is possible that Crown Court hearings for more serious cases would take longer and so costs could be an underestimate. However, due to the small volume of breach hearings at the Crown Court this is thought to be minimal.
- It is possible that, despite the anecdotal evidence gathered suggesting there are no appeals currently, some breach hearings could be appealed which would increase expected costs.
- It is possible that the increased burden on RSOs could lead to a higher breach rate than currently observed which could increase the expected costs.

G. Enforcement

Enforcement of this policy will be by the police and public protection agencies, with oversight from the Home Office.

H. Summary and Recommendations

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

| Option | Costs | Benefits |
|---------------|--|---|
| 2 | £0.9m/year | £N/K |
| | It has not been possible to fully cost downstream costs relating to breaches of additional notification requirements. These will be incurred by: <ol style="list-style-type: none"> 1. the police in terms of detection, issuing cautions, and preparing case files for breach hearings; 2. the Crown Prosecution Service; 3. HMCTS; and 4. the Legal Services Commission. 5. the Prison and Probation services | It has not been possible to quantify the benefits of this policy. Benefits will be incurred in terms of: <ol style="list-style-type: none"> 1. strengthening notification requirements by tightening known loopholes, preventing RSOs from exploiting gaps in existing legislation; 2. police resource currently spent actively monitoring offenders registered as having no fixed abode; and 3. a possible reduction reoffending due to more effective offender management. |
| Source: | | |

Option 2 is the preferred option. The Government recommends widening the notification requirements registered sex offenders are subject to in order to prevent offenders from exploiting gaps in the system and enabling the police to more effectively and robustly manage registered sex offenders as outlined in Section E. It is considered that the risks associated with the four proposals (as outlined in Section E and F) are proportionate in order to achieve the objective.

⁵² Using breach of a Football Banning Order as a proxy for breach of notification requirements on advice from MoJ.

I. Implementation

The Government plans to implement these changes through secondary legislation by virtue of existing powers under the Sexual Offences Act 2003 to make regulations, which would be subject to the affirmative resolution procedure. It is envisaged that subject to Parliamentary business, the legislative amendments will be in force across England and Wales summer 2012. Guidance and/or training will be made available to the police.

We intend to notify offenders who are subject to the notification requirements under Part 2 of the Sexual Offences Act 2003 of the amendments to the legislation and transitional arrangements via the police as outlined in Section E, page 12.

J. Monitoring and Evaluation

The effectiveness of the new regime would be monitored on an ongoing basis by the Home Office and relevant information regarding the extended notification requirements will be stored on ViSOR.

K. Feedback

The Home Office has regular contact with the police and NOMS and attends regular meetings of the ACPO Public Protection Working Group. Feedback on process and practice regarding the extended notification requirements can be received and discussed through these channels.

L. Specific Impact Tests

See Annex 1.

Annex 1. Specific Impact Tests

Statutory Equality Duties

Equality Impact Assessment

Background

On 16th February 2011 the Home Secretary made an oral statement in Parliament announcing that the Government would shortly bring forward proposals to implement the ruling of the Supreme Court in the case of *R (on the application of F and Angus Aubrey Thompson) v Secretary of State for the Home Department [2010] UKSC 17*, in relation to the indefinite notification requirements under section 82(1) of the Sexual Offences Act 2003 (commonly known as the sex offenders register). It was the view of the Supreme Court that 'there must be some circumstances in which an appropriate tribunal could reliably conclude that the risk of an individual carrying out a further sexual offence can be discounted to the extent that continuance of notification requirements is unjustified'. She made clear that this government is determined to do everything we can to protect the public from predatory sexual offenders. And so we will be making the minimum possible changes to the law in order to comply with this ruling.

In this statement, the Home Secretary made clear that where we are able to take further action to protect the public, we will do so. She announced plans to consult on proposals to further strengthen the management of sex offenders and to close existing loopholes in the legislation relating to the notification requirements, including:

- making it compulsory for sex offenders to notify the police of all foreign travel (under the existing scheme only travel of 3 days or more is notified);
- requiring registered sex offenders to notify to the police weekly as to where they can be found when they have no fixed abode;
- requiring registered sex offenders to notify when they are living with a child under the age of 18;
- requiring registered sex offenders to notify passport, bank account and credit card details and to provide identification upon notification as part of the work the Home Office will take forward to tighten the rules so that sex offenders can no longer seek to avoid being on the register when they change their name, including by deed poll. Protecting the public is our priority and to this end, the Home Office continues]

Protecting the public is our priority and to this end, the Home Office continues to engage with public protection agencies to ensure that the risk posed to the public by sexual offenders is managed effectively. Of a number of recommendations made by the police and other public protection organisations, these proposals are considered to be a priority and it is our view that these changes are an important step in strengthening existing arrangements for the management of sexual offenders.

Groups affected by this change in policy

There are two main categories of individuals / groups which may be affected by this new policy; perpetrators and victims of the sexual offences which make an individual subject to the notification requirements for an indefinite period. It is important that both are considered as part of the EIA.

This policy will apply to all qualifying sex offenders i.e. those who are required to notify to the police by virtue of having been convicted or cautioned. This system is often referred to as the Sex Offenders' Register and requires offenders to provide their local police station with a record of their: name; address; date of birth; and national insurance number. This is done annually and whenever their details change.

The notification requirements are an automatic consequence of a conviction or caution, but the length of time an offender will be subject to the requirements will vary dependent upon the sentence they are given.

Section 80 of the Sexual Offences Act 2003 sets out the categories of person who become subject to the notification requirements of the Sexual Offences Act 2003:

- people convicted of an offence listed in Schedule 3 to this Act;
- people found not guilty by reason of insanity of such an offence;
- people found to be under a disability and to have done the act charged;

- people cautioned in England, Wales or Northern Ireland, or, in the case of young people under 18 (juveniles), reprimanded or warned by the police after they have admitted committing the offence.
- people who are made subject to a Notification Order, an interim Notification Order, a Sexual Offences Prevention Order, an interim Sexual Offences Prevention Order
- people convicted, cautioned etc for breach of a Risk of Sexual Harm Order

Further details on eligibility can be obtained from the Sexual Offences Act 2003 Guidance which is available on the Home Office website at: <http://www.homeoffice.gov.uk/publications/police/operational-policing/guidance-part-2-sexualoffences>

The duration of the notification requirements (or how long a person is on the Sex Offenders' register) is set out in the Sexual Offences Act 2003 and the courts have no discretion over this.

Sex offenders are not a homogenous group. However, there are various ways in which we can describe the demographic characteristics of offender populations. Most data will either examine the characteristics of sub groups of individuals who have been convicted of offences; or alternatively they may consider sub groups (e.g. covering only imprisoned offenders). The general sex offender population (i.e. anyone convicted of a sex offence) and the imprisoned sex offender populations are of course different in their composition. The latter will be influenced by the presence of offenders serving longer sentences for more serious offences.

Age

An analysis of the criminal careers of offenders convicted of serious sexual assault against adult females, 16 years and above (Soothill et al 2002) analysed the age and prior offending characteristics of 1,057 offenders in England and Wales⁵⁰. The average age of sex offenders (including juveniles) was under 29 years and the average age at first conviction was 21 years. Because of the nature of the sampling (offenders over the age of 45 were excluded from the analysis), the average figures understate the average age of offenders.

Recent ACPO figures (September 2011) suggest that less than 1% of the registered sex offenders being managed in England and Wales are under the age of 18.

Ethnic background

Data provided by the HM Prison Service on the ethnic background of imprisoned male sex offenders in England and Wales indicate that 82 per cent are white; 10 per cent are Black / Black British; 6 per cent are Asian / Asian British; and 2 per cent are other / mixed. Ethnicity is not recorded for 0.4 per cent of the population (data cited in Cowburn, M, Lavis, V. and Walker T (2008) 'Black and minority ethnic sex offenders', *Prison Service Journal*, 178, pp44-49. A simple comparison against self reported ethnic background of the population as a whole (from the Census) would suggest that both Black/Black British and Asian/Asian British groups are over represented in the imprisoned sex offender population.

Cowburn *et al* also indicate that BME sex offenders are markedly over represented in the younger age groups of imprisoned sex offenders.

Victim safety, preventing re-victimisation and avoiding the creation of new victims is fundamental to the police and other MAPPA agencies' public protection role. It is considered that implementing the proposals outlined within option 2 of this final stage Impact Assessment (and the consultation document: Reforming the Notification Requirements of Registered Sex Offenders (Part 2 of the Sexual Offences Act 2003): A Targeted Consultation)) would enable the police to be provided with the information they need to effectively manage dangerous offenders and to uphold public protection. It is considered that this legislative change is proportionate and strikes an appropriate balance between individual rights and public safety.

Consultation

This final stage Impact Assessment and Equality Impact Assessment has been constructed following the 'Reforming the Notification Requirements of Registered Sex Offenders (Part 2 of the Sexual Offences Act 2003): A Targeted Consultation' a consultation exercise which sought to fully explore the potential impact of these proposals on all affected groups.

50. Soothill et al 2002 data source was taken from the Home Office OI which is a court based database of convictions and relates to those convicted in 1995-1997.

The targeted consultation, which sought views on the recommended policy options for strengthening the existing notification requirements regime for registered sex offenders, ran for an eight week period from 14th June 2011 until 8th August 2011.

Consultees were invited to offer their views and comments on the policy options outlined, supporting evidence and associated costs and benefits, whether quantitative or qualitative.

Although we specifically sought the views of directly affected parties, including practitioners, other Government departments and organisations with a direct interest in the management of sexual offenders, the consultation was available on the Home Office website and we welcomed the comments we received from members of the public.

All of these comments have been taken into account in the development of this policy and this final stage Impact Assessment.

Assessment

In the development of this policy the Home Office has given due consideration to the impact it will have on different groups and gave particular consideration to the potential impact, both positive and negative, of the policy in terms of:

- Race
- Disability
- Gender
- Gender Identity
- Religion, belief and non-belief
- Sexual orientation
- Age

Race: From the available evidence, data relating to offender populations is outlined above. The proposed policy will apply equally to all offenders who are subject to the notification requirements. It is not envisaged that the policy will disproportionately affect any particular ethnic group.

Disability: This policy would apply equally to all registered sex offenders. It is not considered that the proposals will have a disproportionate impact on those with a disability.

Gender: This policy will apply equally to both males and females who have been made subject to the notification requirements under section 82(1) of the Sexual Offences Act 2003.

Gender Identity: It is not considered that this policy highlights any issues specific to gender identity.

Religion / Belief and non-belief: It is not considered that this policy highlights any issues specific to religion or belief.

Sexual Orientation: It is not considered that this policy highlights any issues specific to sexual orientation.

Age: Under these proposals, it is accepted that an offender who is under 18 would be required to notify of residence with a fellow minor. Consideration has been given as to the impact of this reform on this particular group of offenders; it is considered that appropriate guidance is in place to ensure that the management of an offender will not be adversely impacted as a result of their age. MAPPA guidance, version 3.0 2009 provides direction for the management of youth offenders to those agencies operating within the MAPPA framework.

We will continue to monitor this reform to ensure the additional notification requirements do not have a disproportionate impact on offenders as a result of their age.

It is the Government's view that the policy proposals set out within option 2 of this final stage Impact Assessment are a proportionate and reasonable step to take to ensure the police are provided with the information they need to manage dangerous offenders and the risk they pose to the public effectively. In light of the responses to the targeted consultation it is considered that these amendments will strengthen the notification requirements regime, providing the police with important intelligence and allowing them to take action where appropriate to prevent serious offenders from exploiting gaps in existing legislation to cause harm both in the UK and overseas.

Monitoring

Information on individuals subject to notification requirements is stored on ViSOR.

Social Impacts

Human Rights

It is considered that this policy complies with our obligations under the Human Rights Act 1998 and the European Convention on Human Right (ECHR).

It is considered that the targeted consultation exercise undertaken was essential to enable the Home Office to fully scope and explore the potential impact of the proposed changes and to ensure that all those affected by the proposals were satisfied that they fully achieve the intended purpose of more robustly managing registered sex offenders and preventing them from exploiting aspects of the current legislation, in a proportionate way.

To ensure the full range of opinions expressed by those affected by the proposal have been considered, all of the responses received as part of the targeted consultation exercise have been taken into account to develop this final policy.

Justice

This policy does not create any new offence or criminal penalty. However, it does extend the range of information that an offender is legally required to provide to the police in order to be fully compliant with the notification requirements under Part 2 of the Sexual Offences Act 2003. As such, it is acknowledged that this policy may have a bearing on volumes of breaches (i.e. for failure to comply with the notification requirements). Available information is set out within Section E (Appraisal) above.

It is also acknowledged that this may have a bearing on legal aid costs. It is considered that the impact to legal aid based on the estimated volumes for notice of foreign travel will be negligible.

This is because legal aid in the magistrates' court is available subject to the means test and the interests of justice test, which includes the provision of legal aid where there is a possibility of a custodial sentence upon conviction, which community sentences would not satisfy. Further, it is not expected that a significant number of individuals travelling overseas for less than 3 days would be eligible for legal aid in the magistrates' court. The volume of trials in the Crown Court is so small as to be negligible.

However, it is recognised that the outlined legislative amendment with respect to those with no fixed abode may have a more significant bearing on legal aid costs as it is accepted that most people of no fixed abode are likely to pass the means test for criminal legal aid. Although recent figures suggest that less than 1 per cent of the sex offenders' population within the community are recorded as 'no fixed abode' it is recognised that due to the unpredictable nature of those offenders the volume of breaches may be higher than the 4.6 per cent rate which has been applied.

Although the risk of Judicial Review is recognised, it is considered to be extremely low so no further assessment is considered to be required.

The Ministry of Justice have been consulted and included in the development of this policy.

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