

Title: Anti-Social Behaviour Crime & Policing Act (ASBCPA) 2014 – Implementation of Part 1 Injunctions IA No: MoJ040/2014 Lead department or agency: Ministry of Justice Other departments or agencies: Home Office		Impact Assessment (IA)		
		Date: 28th October 2014		
		Stage: Consultation		
		Source of intervention: Domestic		
		Type of measure: Secondary Legislation		
		Contact for enquiries: Kevin Westall Kevin.westall@justice.gsi.gov.uk		
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
£0	N/A	N/A	Out	N/A
What is the problem under consideration? Why is government intervention necessary? The Anti-Social Behaviour Crime & Policing Act 2014 (ASBCPA) will replace Anti-Social Behaviour Injunctions (ASBIs) and Anti-Social Behaviour Orders (ASBOs). The new Injunctions under Part 1 ASBCPA will combine the provisions of both ASBIs and ASBOs under one legislative umbrella which will be subject to the civil burden of proof. Currently, ASBIs are within scope of civil legal aid with services in such cases being provided by legal aid providers holding a civil legal aid contract. ASBOs on the other hand fall within the scope of criminal legal aid and are dealt with by those holding a criminal legal aid contract. These cases tend to be heard in the magistrates' court and usually concern sub-criminal behaviour. As the ASBCPA amends the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), designating Part 1 injunctions as civil for the purposes of legal aid, those holding a criminal legal aid contract will no longer be able to undertake work on the new Injunctions (other than for breach). As such, appropriate amendments need to be made to the civil and criminal legal aid contracts and remuneration schemes to ensure that services are available from appropriate providers and remuneration reflects the work to be undertaken. Government intervention is necessary as it is responsible for the terms of access to legal services funded by the legal aid budget and setting remuneration rates.				
What are the policy objectives and the intended effects? The Government's intention is, on the coming into force of Part 1 of the ASBCPA: <ul style="list-style-type: none"> To ensure that services funded by legal aid are available from appropriate providers; To ensure that providers receive appropriate and reasonable remuneration for the work required, minimising the impact on providers and the legal aid fund as far as possible; and To monitor, in liaison with the Home Office, the financial burdens on the legal aid fund resulting from the implementation of Part 1 of the ASBCPA. 				
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base): <p>Do nothing: no amendments to the civil or criminal legal aid contracts or remuneration schemes would be made. Legal aid providers holding a civil legal aid contract would be able to provide services for applications and appeals of Part 1 injunctions in so far as they were housing-related (which would be remunerated at current civil remuneration rates) and criminal providers would continue to provide services in breach proceedings. However, civil legal services would not be available for applications or appeals of Part 1 injunctions which were not housing-related (i.e. what are currently ASBOs). Furthermore, no provision would be made for the remuneration of barristers for work in the magistrates and Crown Court and remuneration for breach would not be appropriate to the nature of these proceedings nor compensate for travel to the County Court in most cases.</p> <p>Option 1: both civil and criminal legal aid providers would be allowed access to work under the new Injunctions with appropriate remuneration made for the services provided. Option 1 is compared with current levels of remuneration, rather than the do nothing option.</p>				
Will the policy be reviewed? We will monitor the impacts of the policy. If applicable, set review date: N/A				
Does implementation go beyond minimum EU requirements?			N/A	

Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO₂ equivalent change in greenhouse gas emissions? (Million tonnes CO₂ 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: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Both civil and criminal legal aid providers would be allowed access to work under the new Injunctions, with appropriate remuneration made for services provided.

FULL ECONOMIC ASSESSMENT

Price Base Year 13/14	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate:

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

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

N/A

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

- It is not possible to accurately estimate all costs associated with the policy due to data limitations.
- If more than a third of current application and appeal proceedings relating to ASBOs fail the civil means and merits tests then criminal legal aid providers could lose revenue as a result of this policy.
- If less than a third of current application and appeal proceedings relating to ASBOs fail the civil means and merits tests, then there could be a cost to the legal aid fund

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

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

N/A

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

- It is not possible to accurately estimate all benefits associated with the policy due to data limitations.
- If more than two thirds of current application and appeal proceedings relating to ASBOs pass the civil means and merits tests then criminal legal aid providers could gain revenue as a result of this policy
- If less than two thirds of current application and appeal proceedings relating to ASBOs pass the civil means and merits tests then there could be a saving to the legal aid fund.

Key assumptions/sensitivities/risks

Discount rate (%)

N/A

- Estimating the proportion of current application and appeal proceedings relating to ASBOs that will pass the civil means and merits tests is very difficult, as the test has not been applied before to these matters and each case will be judged on its merits.
- Both civil and criminal legal aid providers will have access to application and appeal proceedings work for Part 1 Injunctions.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	N/A	N/A

Introduction

1. This Impact Assessment (IA) accompanies the Government's Consultation "*Anti-Social Behaviour Crime & Policing Act 2014: Consequential changes to remuneration for legal aid services*", published on 28th October 2014.
2. The ASBCPA received Royal Assent on 13 March 2014. The Act introduces a number of new injunctions and orders, including a series of orders to prevent sexual harm, criminal behaviour orders and the new anti-social behaviour injunctions under Part 1 dealing with anti-social behaviour. The new injunction (which aims to prohibit a certain activity or requires some positive activity from the offender where they have caused nuisance or annoyance within a household context or harassment, alarm or distress elsewhere) will be a purely civil order and will be available against individuals aged 10 years or over. The new injunction will replace Anti-Social Behaviour Injunctions (ASBIs) and Anti-Social Behaviour Orders (ASBOs), and several other tools designed to deal with anti-social individuals including:
 - Drinking Banning Orders (DBO);
 - Intervention Orders; and,
 - Individual Support Orders.
3. The new injunction has been modelled on the ASBI which has been used by social landlords to deal with anti-social behaviour issues where they relate to housing, for example a local authority dealing with a disruptive tenant or family. The injunction will be available in the county court or High Court for adults and in the youth court (sitting in its civil capacity) for under-18s. Appeals against an injunction can be made either to the county court (dependant on the level of judge that conducted the earlier proceedings to which the appeal relates), the High Court or the Crown Court (for appeals against decisions made by the youth court). Breach of an injunction will be punishable as civil contempt of court and for over-18s will be dealt with in the county court or High Court. For under-18s, contempt proceedings will be heard in the youth court.
4. Consistent with current anti-social behaviour legislation, the ASBCPA empowers different authorities to bring proceedings in different situations. For example, the police or a local authority may seek an injunction to stop anti-social behaviour in a local street or area. For anti-social behaviour in a housing context, social landlords will also be able to apply for an injunction in relation to anti-social behaviour where an individual's conduct is causing nuisance or annoyance to a person's occupation of residential premises¹. However, unlike current anti-social behaviour proceedings, the same procedures and considerations will apply to all cases, regardless of the authority seeking the order, the behaviour complained of or the venue in which the injunction is heard. For all applications and appeals against a Part 1 injunction, proof will be considered on the basis of the civil standard of proof (balance of probabilities). For all breach matters, consideration will be made on the basis of whether proof has been established beyond reasonable doubt.
5. As the new injunctions will be within scope of civil legal aid except on breach, whereupon contempt proceedings are prescribed as criminal for purposes of legal aid, the key issue for Government has been to seek to provide reasonable remuneration for the work involved on the new injunctions whilst ensuring, as far as possible, no or minimal impacts on the current levels of remuneration payable to legal aid providers.

¹ S.2(1)(b), Part 1, Anti-Social Behaviour Crime & Policing Act 2014

Policy Objectives

6. In implementing changes to the legal aid remuneration schemes and legal aid contracts as a result of the coming into force of Part 1 of the ASBCPA, the Government's intention is:
 - a) to ensure that those eligible for legal aid receive legal help and representation on Part 1 injunctions from appropriate providers;
 - b) make appropriate remuneration to legal aid providers for the work required on an injunction;
 - c) avoid, as far as possible, introducing any significant risks or burdens on the stewardship of the legal aid fund. Likely financial burdens arising from the implementation of Part 1 of the ASBCPA will be monitored.

Policies

7. This IA assesses the impact of a ***do nothing option*** and a ***policy option***, both of which are summarised below:

***Do Nothing:* Access to work on Part 1 injunctions would be limited to the current scope of the civil and criminal contracts**

8. The amendment to the Legal Aid Sentencing & Punishment of Offenders Act 2012 (LASPO) by the ASBCPA provides that Part 1 injunctions fall within the scope of the civil legal aid scheme.
9. If the Government were to do nothing, legal aid providers holding a criminal contract would become ineligible to provide legal help or representation in proceedings relating to anti-social behaviour matters, except where this relates to the breach of an injunction. In addition, providers holding a civil legal aid contract would only be eligible to undertake work on Part 1 injunctions in those matters currently covered by the contract, specifically those on housing related anti-social behaviour matters. Non-housing related matters would be outside the scope of the civil contract. This means that there would be no civil legal aid services available for non-housing related applications and appeals of Part 1 injunctions (i.e., what are currently ASBOs). Further, even if such services were provided, there would not be any means by which to remunerate those holding a civil contract for such services nor would there be any basis for remunerating barristers for proceedings in the magistrates' or Crown Courts.
10. Therefore, if the Government were to do nothing, it would be in breach of its duty to ensure the provision of legal aid because it would not have taken action to provide legal help and representation in non-housing related Part 1 injunction matters (i.e. what are currently ASBOs).
11. Option 1 is therefore not compared to the do nothing option as the latter is not a realistic approach for Government to take. Option 1 is instead compared to current remuneration levels for legal aid providers on ASBI and ASBO matters.

***Option 1:* For all legal aid providers to have access to the work under the new injunctions and for appropriate remuneration to be made for the services provided**

12. Under this option the provision of services and remuneration would be as follows:
 - a) Given that the procedure to be followed on applications and appeals will be the same for all Part 1 injunctions, regardless of either the venue or the nature of the anti-social

behaviour being addressed, the Government considers that this work should be available under both the civil and criminal contracts² and be remunerated on a consistent basis at the applicable standard civil remuneration rates in ASBI proceedings for legal help³ and legal representation⁴ (including travel and waiting).

- b) Breach of an injunction under Part 1 of the ASBCPA will be punishable as contempt of court, subject to the criminal standard of proof and, given the potential implications for the individual affected, considered as criminal proceedings for the purposes of legal aid. The Government considers that work on breach matters should be remunerated on the basis of the fixed fees⁵ payable under the criminal legal aid scheme for proceedings in the magistrates' court, plus travel and waiting time (for proceedings in the county court only)⁶. It should be noted, however, that these rates may change next year as a result of the Legal Aid Transformation criminal litigation reforms set out in Transforming Legal Aid – Next Steps: Government Response (available at: <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/transforming-legal-aid-next-steps-respons.pdf>).

Main affected groups

13. The following key groups are likely to be affected by the proposals:
- those providing civil and criminal legal aid services in anti-social behaviour proceedings, i.e. ASBI and ASBO cases;
 - the LAA, who are responsible for administering the legal aid schemes; and
 - the Government who administer the legal aid fund.

Costs and benefits

14. This IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales, with the aim of understanding the overall impact on society from implementing the new injunctions. The costs and benefits have been compared with current levels of remuneration. The IA places strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However, there are some aspects that cannot always be monetised. This IA considers the impact of the reforms proposed in isolation.
15. Civil remuneration for ASBI matters is currently paid on the basis of a fixed fee for legal help (unless an escape threshold is reached) and hourly rates for legal representation. The total value of claims for ASBI matters closing in 2013/14 was £2.4m, of which £460,000

² The Legal Aid Agency contracts referred to are the Standard Civil Contracts 2010, 2013 and 2014, the Standard Crime Contract 2010 and the Own Client Crime Contract 2015.

³ For controlled work, the housing rate shown in Schedule 1, Part 1, Table 1 and Schedule 1, Part 2, Table 7(e) of the Civil Legal Aid (Remuneration) Regulations 2013 (as amended) are applicable.

⁴ For licensed work, Schedule 1, Part 3, Table 10(a) of the Civil Legal Aid (Remuneration) Regulations 2013 (as amended) applies. For barristers, in independent practice, the applicable rates are set out in Schedule 2 of the Civil Legal Aid (Remuneration) Regulations 2013 (as amended). The rates applicable to the Youth Courts, where Counsel is assigned to a hearing, would be those that apply for County Courts. Where Counsel is assigned in the Crown Court, the applicable rates will be those that apply to the High Court.

⁵ The undesignated area standard fixed fees apply as set out in paragraph 5, Schedule 4, Criminal Legal Aid (Remuneration) Regulations 2013 (as amended). It should be noted, however, that these rates may change next year as a result of the Legal Aid Transformation criminal litigation reforms set out in Transforming Legal Aid – Next Steps: Government Response (available at: <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/transforming-legal-aid-next-steps-respons.pdf>).

⁶ For travel and waiting, the fee would be based on the undesignated area standard fee set out in paragraph 5, Schedule 4, Criminal Legal Aid (Remuneration) Regulations 2013 (as amended).

concerned legal help and £1.9m concerned legal representation⁷. Under the civil legal aid scheme for representation cases closing in 2013/14, the mean claim value for representation in an action relating to an order under Section 1 of the Crime and Disorder Act 1998 or anti social behaviour injunction under the Housing Act 1996 made against the individual was £1,561. The mean value for legal help on anti-social behaviour and nuisance issue matters was £241 over the same period. These values include travel and waiting.

16. In comparison, remuneration for representation in ASBO matters under the criminal legal aid scheme is mainly paid on the basis of a series of fixed fees, which defer to hourly rates only once an escape threshold has been reached. The total value of claims made for ASBOs in 2013/14 was £1.3m. The £1.3m covers 2,305 ASBO claims, of which 257 related to applications for an ASBO and 2,084 related to a breach. The 257 applications had a total claim value of £320,000, with a mean claim value of £1,252.

Option 1: For all legal aid providers to have access to the work under the new injunctions and for appropriate remuneration to be made for the services provided

Description

17. Under this option, remuneration would be as follows:

- a) Given that the procedure to be followed on applications and appeals will be the same for all Part 1 injunctions, regardless of either the venue or the nature of the anti-social behaviour being addressed, it is proposed that such work should be available under both the civil and criminal contracts⁸ and be remunerated on the same basis at the applicable standard civil rates for legal help⁹ and legal representation¹⁰ (including travel and waiting) in ASBI proceedings. The civil rates will apply to all advocates, including barristers in independent practice. For barristers, the rates applicable to the Youth Courts, where Counsel is assigned to a hearing, would be those that apply for County Courts. Where Counsel is assigned in the Crown Court, the applicable rates will be those that apply to the High Court.
- b) Breach of an injunction under Part 1 of the ASBCPA will be punishable as contempt of court, will be subject to the criminal standard of proof and given the potential implications for the individual affected, considered as criminal proceedings for the purposes of legal aid. It is proposed that work on breach matters should be remunerated on the basis of the fixed fees¹¹ payable under the criminal legal aid scheme for proceedings in the magistrates' court, plus travel and waiting time (for proceedings in the county court only)¹².

⁷ ASBI spend covers closed case spend on the following proceedings: Legal help given for Anti-Social Behaviour and Nuisance issues, representation on an application for an injunction against anti-social behaviour under the Housing Act 1996 and representation in action relating to an order under Section 1 of the Crime and Disorder Act 1998.

⁸ The Legal Aid Agency contracts referred to are the Standard Civil Contracts 2010, 2013 and 2014, the Standard Crime Contract 2010 and the Own Client Crime Contract 2015.

⁹ For controlled work, the housing rate shown in Schedule 1, Part 1, Table 1 and Schedule 1, Part 2, Table 7(e) of the Civil Legal Aid (Remuneration) Regulations 2013 (as amended) are applicable.

¹⁰ For licensed work, Schedule 1, Part 3, Table 10(a) of the Civil Legal Aid (Remuneration) Regulations 2013 (as amended) applies. For barristers, in independent practice, the applicable rates are set out in Schedule 2 of the Civil Legal Aid (Remuneration) Regulations 2013 (as amended).

¹¹ The undesignated area standard fixed fees apply as set out in paragraph 5, Schedule 4, Criminal Legal Aid (Remuneration) Regulations 2013 (as amended). It should be noted, however, that these rates may change next year as a result of the Legal Aid Transformation criminal litigation reforms set out in Transforming Legal Aid – Next Steps: Government Response (available at: <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/transforming-legal-aid-next-steps-respons.pdf>).

¹² For travel and waiting, the fee would be based on the undesignated area standard fee set out in paragraph 5, Schedule 4, Criminal Legal Aid (Remuneration) Regulations 2013 (as amended). It should be noted, however, that these rates may change next year as a result of the Legal Aid Transformation criminal litigation reforms set out in Transforming Legal Aid – Next Steps: Government Response (available at: <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/transforming-legal-aid-next-steps-respons.pdf>).

18. As explained in paragraph 11, option 1 is not compared with the do nothing option but rather to current levels of remuneration for ASBO and ASBI matters.

Costs and Benefits

Legal aid providers/advocates

19. The following assumptions have been made in estimating the impacts:
- a) Part 1 injunction matters related to current applications/appeals for ASBOs will have the same claim value to current ASBI matters.
 - b) Part 1 injunctions, which correspond to current ASBO matters, will, under the civil legal aid scheme, correspond to one legal help matter and one case of legal representation.
 - c) The claim volume of Part 1 injunctions where they correspond to ASBOs will not differ from those for ASBOs in 2013/14
 - d) Criminal legal aid providers and barristers will continue to be able to provide legal services on applications and appeals for ASBO type matters under Part 1 of the ASBCPA. Civil legal aid providers would also be able to work on non-breach, non-housing matters under this Option.
20. Under Option 1, ASBO application and appeal work currently remunerated under the criminal legal aid scheme would be remunerated at civil rates. Following the implementation of part 1 ASBCPA, if all application and appeal work currently relating to ASBOs was remunerated at civil rates and if criminal legal aid providers were to continue to deal with such matters, then criminal legal aid providers would expect to see an increase in revenue compared with current levels of remuneration.
21. The above analysis and current remuneration figures in paragraphs 15 and 16 include cases where remuneration was made to assigned counsel. Advocates assigned to work on applications or appeals of Part 1 Injunctions would likely see an increase in income once remunerated at the civil rates although the extent to which they'd see an increase cannot be accurately estimated as the LAA's data systems do not allow claims to be broken down into the necessary detail. However, the number of assigned counsel likely to be involved in Part 1 Injunction proceedings is likely to be very low, as now for ASBO and ASBI proceedings.
22. Civil legal aid has a different means test to criminal legal aid, and also a merits test that governs whether or not legal aid can be provided. It is anticipated that not all of the individuals currently eligible for criminal legal aid for ASBO proceedings will meet the civil legal aid means and merits criteria for full legal aid representation to be made available for Part 1 injunction proceedings. This means that legal aid is likely to be granted in only a proportion of existing ASBO non-breach cases under the Part 1 injunction regime – which affects the analysis in paragraphs 20 and 21. This proportion is very difficult to estimate as each case will be judged on its own merits though if more than a third of current application and appeal proceedings relating to ASBOs fail the civil means and merits tests then criminal legal aid providers could lose revenue as a result of this policy, relative to current levels of remuneration.
23. For breach proceedings for Part 1 injunctions corresponding to ASBOs, criminal legal aid providers should not see a change in revenue as these proceedings will continue to be remunerated at the rates applicable in ASBO proceedings (i.e. the fixed rates which apply in the magistrates' court under the criminal legal aid scheme). It should be noted, however, that these rates may change next year as a result of the Legal Aid Transformation criminal litigation reforms set out in Transforming Legal Aid – Next Steps: Government Response

(available at: <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/transforming-legal-aid-next-steps-respons.pdf>)

24. For breach proceedings for Part 1 injunctions corresponding to ASBIs, it will still remain possible for social housing providers to pursue possession proceedings on standard discretionary grounds following a breach and where they do so these proceedings would be dealt with by housing specialists and remunerated at standard civil rates. However, Part 1 of the ASBCPA also provides that a decision given by a court which shows that an individual has breached a Part 1 injunction will constitute a mandatory ground for possession. Where a social housing provider chooses to pursue the breach of an injunction first in order to provide certainty in any subsequent possession case, these proceedings would be undertaken by crime providers at the rates specified above. Although this could mean a potential increase in the number of cases falling under the criminal scheme, and therefore an increase in income for criminal providers, the likelihood of this is not quantifiable as the behaviour of social housing providers in these matters is difficult to predict.
25. For travel and waiting, criminal providers are likely to benefit from the proposal as currently the majority of ASBO breach cases are remunerated under a fixed fee set out in the criminal remuneration regulations. Travel and waiting is only paid separately in cases where the escape threshold is reached. Under Option 1, travel and waiting would automatically be payable to crime providers for all breach proceedings associated with Part 1 injunctions in the county court. However, it is not possible to put an overall value on the benefits of this to crime providers as the data on travel times for ASBOs in the current, criminal legal aid data are based on distance to magistrates' courts whereas breach proceedings under Part 1 of the ASBCPA, for which travel and waiting will be separately payable, will be held in county courts, which are often not co-located with magistrates' courts.
26. The application of a less stringent legal test (the civil standard of proof) to applications and appeals of Part 1 injunctions will represent a change for criminal legal aid providers whose current work on ASBOs uses a heightened civil evidential test equivalent to the criminal standard of proof (beyond all reasonable doubt). It will also mean, as a result of the change in court venue, that they will be required to be in a position to present their arguments in support of their case at the outset of proceedings.

Legal Aid Agency

28. There would be administrative costs to the Legal Aid Agency from making changes to business processes and contracts. These costs would result from changes to IT systems (estimated at around £50k), administration costs (estimated at up to £150k per year) and running costs from more cases being paid at hourly rates (the cost of this is not readily determinable at this stage).

Government

29. For applications and appeals, there could be an additional cost to the legal aid fund if all ASBO type applications and appeals passed the civil means and merits tests. This is unlikely to materialise as not all cases are expected to pass. In fact a saving could be made if more than a third of application and appeal proceedings currently relating to ASBOs fail the civil means and merits tests.
30. No increase in cost to the legal aid fund is expected from Part 1 Injunction breach proceedings, as these will continue to be remunerated at the current rates applicable in ASBO proceedings.

31. There is likely to be a small cost to the legal aid fund as a result of remunerating travel and waiting costs in breach cases in the county court, though this cost cannot be reliably estimated, as mentioned in paragraph 25.

Individuals

32. Under Option 1, all current legal aid providers will have access to work under Part 1 Injunctions. We do not expect Option 1 to impact individuals.

Risks and uncertainties

33. The following risks and uncertainties apply:
- a) Due to data limitations, there are difficulties in fully estimating the impact of this policy option on both providers' revenues and the legal aid fund.
 - b) There is uncertainty surrounding the number of individuals currently receiving criminal legal aid in ASBO cases who would remain eligible for full legal aid representation, upon implementation of the ASBCPA, on the basis that they would now be required to meet the civil means and merits criteria. The number is difficult to estimate as each case will be judged on its own merits.
 - c) It is assumed that where applications and appeals of Part 1 injunctions corresponding to ASBO cases meet the civil burden of proof that they will have a similar duration and average claim value to current ASBI proceedings and could therefore have a similar claim value. It is possible, however, that this may not be the case.
 - d) There is also the potential, because of the unfamiliarity by crime providers of the processes involved in county court proceedings that they may elect to instruct Counsel in those Part 1 injunction proceedings corresponding to ASBOs which take place in the county court, rather than forgoing the work. This would have the potential to increase costs, although the likely costs of this cannot be determined at this stage.

Enforcement and implementation

34. The introduction of Part 1 ASBCPA is intended to come into force early next year. As a result, the consequential amendments required to the legal aid remuneration schemes will be introduced through amendments to secondary legislation and contract amendments to coincide with this date.