



Ministry of
JUSTICE

Punishment and Reform: Effective Community Sentences Government Response

Equality Impact Assessment

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Introduction

This equality impact assessment (EIA) covers proposals in the Government's response to the consultation document *Punishment and Reform: Effective Community Sentences*, originally published on 22 March 2012.

It assesses the potential impacts of the policy proposals in relation to equality, based on current available evidence. It is intended as a companion document to the Government response and the associated impact assessment (IA).

Details of data sources and tables used to support the analysis in this EIA can be found in the Annexes to this document.

Equality duties

Under section 149 of the Equality Act 2010, when exercising their functions, Ministers and the Department are under a legal duty to have 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a protected characteristic and those who do not); and
- Foster good relations between different groups.

Having 'due regard' needs to be considered against the nine 'protected characteristics' under the Equality Act 2010 – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

Summary

The Government is committed to ensuring that the sentencing framework allows for robust punishment and effective rehabilitation of offenders. In *Punishment and Reform: Effective Community Sentences*, we consulted on proposals aimed at strengthening the non-custodial sentencing framework, in order to ensure it is effective at punishing and reforming offenders, and to increase the public's confidence that it deals appropriately with offenders.

Evidence shows that community sentences can be effective at tackling the causes of re-offending. For similar offenders, re-offending rates were 8.3 percentage points lower than short-term custody in 2008. There is also good evidence that victims and the public are open to considering these sentences as an effective disposal for offenders in the right circumstances. Fines, too, can when set at the right value be an effective response to lower-level offending.

However, at present community orders do not always inspire public confidence. While re-offending rates for community orders are lower than those for similar offenders who are sentenced to short-term custody, they remain too high. Too many community orders do not include an element which the public and offenders would recognise as a punishment. Despite recent improvements in payment rates, there is also a lack of confidence in the ability of financial penalties to be an effective punishment and deterrent for offenders.

The Government's response to *Punishment and Reform* sets out a range of reforms intended to increase public confidence in community sentences, by ensuring that they balance punishment with rehabilitation, and that they are effectively enforced. This EIA assesses the potential impacts of the following measures with regard to equality. We propose to take forward the following measures through legislative changes:

- Placing a duty on courts to impose an element – either a community order requirement or a fine – that fulfils the purpose of punishment in or alongside every community order.
- Giving courts the power to impose location monitoring as part of a community order by extending the existing electronic monitoring requirement. This will allow courts to make use of new technology such as GPS, once available, to track offenders as part of their sentence, for the purposes of deterring crime, public protection, and crime detection.
- Providing for courts to defer sentencing to allow for a restorative justice intervention, in cases where both victim and offender are willing to participate.

- Making it clear that courts can, where appropriate, take account of an offender's assets when fixing the value of a financial penalty.
- Removing the current £5,000 limit on compensation orders imposed in the magistrates' courts;
- Allowing for DWP and HMRC to share data with HMCTS for the purposes of fixing and enforcing financial penalties.

We also propose to take forward the following measures operationally:

- Working with the courts, sentencers and probation trusts to explore improvements in operational procedures for dealing with breach of community orders;
- Encouraging more creative use of curfew requirements under the existing community order framework;
- Encouraging more flexible use of fines alongside community orders.

We have considered the current package of reforms to community sentences in accordance with the statutory obligations under the Equality Act 2010 and Disability Discrimination Act 2005.

The following is a summary of our overall assessment of impacts on victims and offenders with different protected characteristics (age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation).

Direct discrimination

The proposals to make changes to community sentences apply equally to all victims and offenders and do not treat people less favourably because of a protected characteristic. There is therefore no direct discrimination within the meaning of the Equality Act 2010.

Indirect discrimination

Although the proposals will apply equally to those who have a protected characteristic and those who do not, those who share certain characteristics may be more likely to be affected by some of the proposals. However, for the reasons set out below we do not think that to the extent there is a differential impact this amounts to indirect discrimination.

Victims. Some of the proposals have the potential for a positive impact on victims, and we have identified the potential for positive differential impacts in relation to age, marital status, race and religion: people aged 16 to 44, single people, people from the non-White ethnic groups and people who are not Christians are over-represented amongst victims in comparison to the general population.

Offenders. Our analysis of the estimated proportion of offenders who would be impacted by the proposals suggests that there is a potential for a differential negative impact in relation to **information sharing for imposing and enforcing financial penalties**. The available evidence suggests that people currently in receipt of fines aged 18-29 are slightly less likely to be in receipt of out-of-work benefits, as are men and people from the Asian or Chinese and Other ethnic. They are thus more likely to be negatively affected by this proposal as they may be more likely to be on middle or high incomes and thus may receive higher fines in future if fines are set more accurately. However, we do not believe that this would put these offenders at a particular disadvantage, as fines would only be increased from the current level if it was found that the offender could afford more and the overall sentence imposed by the court must be proportionate. We have not identified a differential impact for specific groups of offenders in relation to other policies when comparing with the relevant pools as described above.

We have also compared the characteristics of offenders affected by the proposals with the characteristics of the general population. Adults aged 18-39, disabled people, single people, men, and in some cases people from the Black ethnic group, are the main groups affected by the proposals, as they are over-represented compared to the general population. Proposed mitigations are as follows.

Mandatory punitive element in every community order. We consider that this proposal will give courts sufficient discretion to choose a requirement or other punitive sanction that is appropriate and proportionate for individual offenders. Courts will also, in exceptional circumstances where it is in the interests of justice, be able to justify not imposing a punitive requirement.

Courts taking into account assets when fixing the value of financial orders. If offenders own property or other assets of any value and courts in future take that into account when setting fines, some groups may receive higher fines than now. Courts' existing practice is to consider essential outgoings as well as income in assessing the appropriate level of fines. We consider that the proposal will allow courts to take into account any potential adverse impact on the offender or any dependants.

More effective use of fines. This proposal will encourage courts to make greater use of fines alongside community orders. It is possible that the relative impact on offenders' incomes may be greater for those on low incomes than on those in other groups. Respondents to the consultation have also raised concerns about the potential for knock-on impact on offenders with caring responsibilities for families or other dependants. We consider that existing requirements for courts to have regard to offenders' financial circumstances when imposing financial penalties, together with our proposals to improve data sharing between HMCTS, the DWP and HMRC, should mitigate these potential impacts.

As stated above the proposals have the potential for a positive impact on victims. We do not think that any offender sharing a protected characteristic will be put at a particular disadvantage from the changes. However to the extent that certain groups are likely to be adversely impacted, we think that the proposals can be justified as a proportionate means of achieving the legitimate aim of ensuring that the sentencing framework allows for both robust punishment and effective rehabilitation of offenders. We therefore consider it unlikely that there will be any indirect discrimination arising from these proposals.

Discrimination arising from disability and the duty to make reasonable adjustments

In so far as these proposals extend to disabled offenders, we believe that the policies are proportionate. It would not be reasonable to make an adjustment for disabled persons so that they are automatically out of scope of the proposals.

Mandatory punitive element in every community order. The majority of respondents to the consultation indicated that offenders with mental health issues should be excluded from a punitive element in every community order. Some of these offenders will be defined as having a disability under the Equality Act 2010. We will legislate to place a duty on courts to include in the community order a requirement that fulfils the purpose of punishment for the offender, whatever their circumstances. While we will not specify what requirements courts should impose, on the basis that what is punitive for one offender may not be punitive for another, our expectation is that these would in generally be restrictions of liberty that represent to the public a recognisable sanction (such as curfews, exclusion, or community payback). For offenders with learning difficulties and mental health issues, arrangements will be made to ensure they understand the requirements of the order (e.g. curfew, community payback etc). For offenders with physical or sensory disabilities reasonable adjustments will be made as appropriate. In exceptional circumstances, for example where an offender has significant learning difficulties, the court will have the discretion not to impose a punitive element where it is not in the interests of justice to do so. We believe that this will mitigate any disproportionate impact of the proposals.

Extended electronic monitoring requirement. A power to impose tracking may place physical and psychological demands on those with physical or learning disabilities, and those with mental health issues. However, as with the existing power to impose electronic monitoring for the purpose of monitoring compliance, courts will need to consider whether the sentence is proportionate and what adjustments can be made on the facts of the case. We believe that the existing requirement on courts to seek pre-sentence advice from probation will allow for this assessment.

Breach. It is possible that speeding up breach proceedings may impact adversely on offenders with a learning disability or mental health issues, as they may be less able to respond quickly to swifter proceedings. In taking forward this work with probation and HMCTS we will consider safeguards to avoid this. Speeding up breach proceedings will not affect the fairness of the overall proceedings.

Harassment and victimisation

We have considered the duty to eliminate harassment and victimisation and consider it may be relevant in relation to proposals on restorative justice (RJ). For example, concerns were raised by respondents to the consultation that RJ may not be appropriate for offenders convicted of hate crime. However, as RJ is a voluntary process that requires an informed assessment of the suitability of both victim and offender to participate, we would expect a court in deciding whether or not to defer sentence for RJ activities to consider whether there was a risk of harassment and victimisation. The forthcoming RJ framework will ensure that there is a coherent vision of how RJ should apply across all stages of the justice process, including how we build local capacity within the limited funding available, accreditation and training.

Advancing equality of opportunity

Wherever possible we have considered how these proposals impact on the duty to advance equality of opportunity by taking steps to meet offenders' needs.

We consider that some of the proposals have the potential for a positive impact on victims, and we have identified the potential for positive differential impacts in relation to age, marital status, race and religion: people aged 16 to 44, single people, people from the non-White ethnic groups and people who are not Christians are over-represented amongst victims in comparison to the general population.

Fostering good relations

We have considered how the proposals to reform community sentencing might tackle prejudice and promote understanding between people from different groups, but do not think they are of particular relevance to the proposals.

Conclusion

Having had due regard to the potential differential impacts identified in the 'analysis' sections below, the Government is satisfied that it is right to take forward these proposals to reform community sentences.

We acknowledge there are a number of gaps in the research and statistical evidence available to assess fully the potential impact of our proposals on a number of protected characteristics.

Methodology

This EIA draws upon a number of evidence sources. We have used the best quality evidence available, which is mainly national or official statistics, but have also drawn on other sources where appropriate. A full list of data sources can be found at Annex A. Annex B contains the tables used in our analysis.

We have also considered evidence contained in the responses to the consultation. Details of the consultation process are given at Annex C, and our response to general equalities issues raised is given in Annex D.

In order to identify whether people sharing a protected characteristic may be put at a particular disadvantage from the policy proposals, and whether there is the risk of direct discrimination, we have undertaken the following comparisons of victims and offenders with protected characteristics:

- we have compared the characteristics of all victims of crime with the characteristics of general population, and where there are large differences we have considered the broad equality impacts of this;
- we have estimated the proportion of offenders who would be negatively impacted by the proposals out of all those who would be positively or negatively impacted by the proposals ('the pool'), for people with and without each protected characteristic; where there are large differences for people with and without protected characteristics we consider options for mitigating the impact of the proposals, and whether the proposals are a proportionate means of achieving a legitimate aim; and
- we have compared the characteristics of offenders affected by the proposals with the characteristics of the general population, and where there are large differences we have considered the broad equality impacts of this.

Impact on victims

Some of the proposals have the potential for a positive impact on victims, in that there may be the potential for reduced re-offending, increased victim satisfaction and confidence, and more money being paid to victims. We have identified the potential for positive differential impacts in relation to age, marital status, race and religion: people aged 16 to 44, single people, people from the non-White ethnic groups and people who are not Christians are over-represented amongst victims in comparison to the general population. (as shown in table 1, Annex B). We have assumed there may be a greater impact on those groups that are currently over-represented amongst victims.

We consider the policies that may have a positive impact on victims to be as follows:

- **A punitive element in every community order.** There may be long-term changes to the re-offending rate from ensuring a robust punitive element is included in every community order. There is some evidence to suggest that adding punitive requirements to community orders can, in some circumstances, reduce re-offending behaviour for offenders with similar characteristics. This depends on the combinations of other requirements with which punitive requirements are used:
 - Adding a punitive requirement (unpaid work or curfew) to supervision was found to reduce the frequency of re-offending by 8.1 percent in the first year of the community order and 7.5 percent within the second year. It appeared that this effect was largely driven by the impact of curfew requirements, rather than unpaid work.
 - Adding a curfew requirement to a supervision requirement reduced the frequency of re-offending by 12.1 percent within the first year of the community order and 8.5 percent within the second year
 - Among the other combinations of requirements that were examined, there were no statistically significant changes in re-offending from adding a punitive requirement to existing packages of requirements
- This suggests that where sentencers add a punitive requirement (in particular, a curfew) to offenders who would otherwise receive standalone supervision, we may expect a lower future level of crime. There may be reduced social costs associated with re-offending behaviour as crime imposes costs on society, notably the physical, emotional and financial impact on victims.
- Ensuring that there is a punitive element to every community order is designed to give the public a greater level of confidence in community orders and demonstrate that all wrongdoing has consequences. Offenders too need to realise that their offending will result in sanctions.

- There may be some intangible benefits arising from a greater level of public confidence in the Criminal Justice System, and from justice being seen to be done through offenders undertaking visible and punitive requirements on community orders.
- **Electronic monitoring.** Greater use of electronic monitoring of compliance with other requirements in a community order could deter the offender from breaching the requirements of their community order if they face being sanctioned. Equally, it could increase the number of detected breaches of community orders. If greater use of electronic monitoring were to deter offenders from breaching their community orders, there may be social benefits in terms of reduced re-offending.
- Use of tracking technology to monitor whereabouts may discourage offenders from committing further offences, because of the offender's perception that the tracking data may link the offender to the offence. If this were the case, there may be social benefits in terms of reduced social costs of crime, including the costs to victims (physical, emotional and financial costs).
- **Courts taking into account assets when fixing the value of financial orders.** In some cases, courts may take into account assets as well as income and impose higher values of compensation orders on offenders. There may therefore be benefits for victims.
- **Information sharing for imposing and enforcing financial penalties.** Data sharing may also improve compliance with compensation orders. Victims may therefore benefit from a higher value of compensation.
- **Restorative Justice.** Evidence on RJ that was previously published in the "Breaking The Cycle" Evidence Report included a meta-analysis of the effectiveness of 35 individual restorative justice programmes in Canada and concluded that, in general, the programmes had a positive impact on reoffending rates, in comparison with non-restorative justice interventions. A joint Home Office and Ministry of Justice commissioned evaluation of a number of restorative justice pilots found that 85 per cent of victims who participated in the restorative process said they were satisfied with the experience. The evaluation also found that when looking at these pilots, together, they were effective in reducing the frequency of reoffending. Recent further analysis of the data by the Ministry of Justice has suggested that the size of this impact was around 14 per cent.
- **Removing the limit on compensation orders in the magistrates' courts.** While only a small number of compensation orders are currently set close to, or at the maximum (£5,000), enabling magistrates to be more flexible in the value of compensation orders may benefit victims. The value of some compensation orders may increase meaning that victims of crime may benefit from a higher amount of financial compensation, assuming that higher values of compensation orders do not affect the ability of offenders to pay.

Impact on offenders

Punitive element in every community order

Aims and outcomes for the policy

Too many community orders do not include a clear punitive element alongside other requirements aimed at rehabilitation and reparation, and so they do not effectively signal to society that wrongdoing will not be tolerated. The consultation paper proposed that every community order should include a clear punitive element alongside any other requirements aimed at rehabilitation or reparation. It suggested that the punitive element should consist of community payback, a financial penalty, or a significant restriction of the offender's liberty. However, it also suggested that there might be some offenders for whom an explicitly punitive requirement might not be suitable.

The Government remains of the view that it is vital, if community sentences are to have the confidence of victims and the public, that they should wherever possible include a demonstrably punitive element. However, we are mindful of the significant feedback we have received that punishment is ultimately subjective, and that what is punitive for one offender in one set of circumstances will not necessarily be punitive for another offender in a different set of circumstances. We have also borne in mind respondents' views that there will be occasions when a punitive requirement within a community order will not necessarily be appropriate. We agree with the views expressed in many responses that courts will be best placed to make a judgment about what is punitive for a particular offender, and whether there may be circumstances which make punishment inappropriate in a small proportion of cases.

We are therefore introducing amendments to the Crime and Courts Bill to create a duty on courts to include at least one requirement in a community order – or alternatively, a fine alongside the community order – that fulfils the purpose of punishment in the offender's case, unless there are exceptional circumstances where it would be unjust to do so. It will be for the court to decide which requirement, or which financial penalty, will be punitive given the circumstances of the offence and the offender.

Analysis

For modelling purposes, we have defined 'punitive requirement' as being one of the community order requirements that most obviously restricts offenders' liberty: either a curfew, unpaid work, exclusion, or a prohibited activity. In practice it will be for courts to decide on a requirement that is punitive for the offender before them.

We have estimated the proportion of offenders who would be negatively impacted by the proposals out of all those who would be positively or negatively impacted by the proposals, for people with and without each protected characteristic. Offenders who do not currently receive a punitive requirement will do so in future, and will therefore be negatively impacted by the proposals in the short term. Those who do currently receive a punitive requirement will be unaffected by the proposals. Therefore all offenders from the 'pool' will be negatively affected by the proposals and there is no reason to expect the impact to differ between those with protected and other characteristics.

We have also compared the characteristics of offenders affected by the proposals with the characteristics of the general population. Our analysis in tables 2-6 (Annex B) shows that people aged 18-39, disabled people, single people, and men are over-represented amongst those currently given community orders without a punitive requirement compared to the general population.

A majority of consultation respondents indicated that offenders with mental health issues or learning disabilities should be excluded from the proposals. Similarly, respondents suggested that those unable to carry out punitive requirements because of poor physical health, addiction, those with personality disorders or low maturity (in the case of young adults) should be sentenced according to their needs.

Mitigation and Justification

We recognise that particular punitive requirements may not be suitable for some offenders. For example, people with disabilities, pregnant women and new mothers, victims of domestic violence, people with certain religious beliefs, and women (who are more likely to be carers) may have specific needs which will need to be taken into account when determining whether an unpaid work or curfew requirement is appropriate.

We consider, however, that making a universal exception for some or all of these groups would in itself be a disproportionate response. Certain punitive requirements may, with reasonable adjustment, be appropriate for offenders with various protected characteristics. For example, our analysis shows that disabled offenders are less likely than offenders without a disability to receive an unpaid work requirement, suggesting that in some cases courts do not consider it appropriate for this group or that suitable work placements are available. However, analysis shows that disabled offenders are not universally excluded from unpaid work requirements.

Under this proposal, the courts will retain wide discretion to take the individual circumstances of the offender and the offence into account when sentencing. Courts will continue to consider any mitigation with regard to the offender's culpability or personal circumstances when determining the severity of the sentence. This proposal will also be subject to the existing legal requirement that when imposing a community order, courts should ensure that the requirements chosen are the most suitable for the offender.

We consider that providing for courts to determine which community order requirement or financial penalty is an appropriate and proportionate punitive element of the sentence will allow for flexibility to take account of needs related to protected characteristics. Pre-sentence reports will provide courts with the information necessary to be able to inform an appropriate choice of punitive requirement that allows, if necessary, for reasonable adjustments to be made. If a court decides that, given the circumstances of the offender and the offence, it would be unjust to impose any requirement that fulfils the purpose of punishment, the court will be able to rebut the statutory requirement to impose one.

The guidance for probation trusts regarding the provision of pre sentence reports to court was last updated by the National Offender Management Service (NOMS) in 2011. A further instruction for probation trusts will need to be issued to ensure that those staff who are responsible for writing pre sentence reports are familiar with the expectation for punitive requirement in community orders, except in exceptional circumstances, and address this within the proposals for sentence provided to the court.

To the extent that certain groups are adversely impacted we think that the proposals can be justified as a proportionate means of achieving the legitimate aim of ensuring that the sentencing framework allows for both robust punishment and effective rehabilitation of offenders.

Electronic monitoring (EM)

Aims and outcomes for the policy

The consultation paper sought views on how to make more creative use of existing electronic monitoring technology in enforcing community order requirements. It also proposed to make use of new technologies, both to monitor existing requirements and to allow location monitoring to deter future offending.

We will draw on the examples of innovative uses of electronically monitored curfews provided by respondents to support probation pre-sentence report writers in making suitable recommendations to courts. We will also legislate to give courts the power to impose location monitoring (or tracking) as part of a community order by extending the existing electronic monitoring requirement. This will allow courts to make use of new technology to track offenders as part of their sentence (at the moment electronic monitoring can only be used to monitor compliance with other requirements), for the purposes of deterring crime, public protection and crime detection. Based on views expressed by sentencers and other respondents, we believe it is most likely that a tracking requirement would be used for offenders who present a high risk of re-offending, or who might pose a risk to the public.

Analysis

As it is a matter for judicial discretion who will be tracked, we are unable to identify the characteristics of offenders who may be negatively affected by the proposals, and therefore it is hard to clearly identify the potential for indirect discrimination.

We have compared the characteristics of offenders given community sentences with the characteristics of the general population and our analysis (in tables 2-6, Annex B) shows that people aged 18-39, disabled people, single people, people from the Black ethnic group and men are over-represented amongst those given community orders compared to the general population.

We recognise that tracking may place physical and psychological demands on those with physical or learning disabilities, and those with mental health issues. It will be necessary for probation staff, or contracted service providers, to provide increased support to enable these offenders to comply with the order (for example, to ensure the tag is worn at all times and potentially to ensure it is adequately charged).

Given that offenders are not required to do anything (other than be monitored and charge the apparatus) as a result of this apparatus, we do not think it risks any additional adverse impacts on any other group of offenders.

Mitigation and Justification

Once appropriate technology is available, the Government will explore with the Sentencing Council the scope for producing guidelines for courts on relevant factors to consider when imposing tracking. These are likely to include factors such as an offender's propensity to re-offend and the likely harm of re-offending. Guidelines will allow for flexibility to respond to the evidence as it emerges and help ensure the best link between the aim of tracking and its imposition in an individual case. Pre-sentence reports will also be available to sentencers as for any existing community order requirement, and will be able to recommend an offender's suitability for tracking based on their particular needs. Guidance for pre-sentence report writers will encourage probation staff to consider the specific needs of offenders with mental health issues (for example on the offender's ability to understand and comply with the order). We consider that this will provide an adequate safeguard against any potential differential impact on this group. This in turn will allow sentencers to make informed decisions on who would be suitable for a monitoring requirement and ensure that orders can be tailored to meet the specific needs of those with protected characteristics.

Offenders' assets

Aims and outcomes for the policy

The consultation paper sought views on how to create a new sentencing power that would allow courts to confiscate offenders' property as a punishment in its own right. Given the obstacles to creating a new sentencing power to seize assets that many respondents identified, we do not propose to take forward this proposal in the form set out in the consultation paper. However, we have noted that many respondents argued for making more effective use of existing powers to seize property to enforce unpaid financial penalties.

Instead we will legislate to make clear that courts can take account of an offender's assets when fixing the value of a financial penalty. This will allow courts to impose proportionate and equitable fines and compensation orders in cases where offenders may be cash-poor but have property of significant value. We will also review whether existing court powers to seize property in lieu of unpaid financial penalties – for example, powers to issue distress warrants or to clamp the cars of fine defaulters – give the courts the tools they need.

Analysis

This policy is in practice more likely to impact on offenders with relatively low incomes but with assets of some value, as they may in future receive higher fines than now.

We have estimated the proportion of offenders who would be negatively impacted by the proposals out of all those who would be positively or negatively impacted by the proposals, for people with and without each protected characteristic. We consider that offenders given fines who are on low incomes may be more likely to be negatively impacted by the proposals. Our best proxy for offenders given fines on low incomes are offenders who received a fine who were on out-of-work benefits at some point the month before sentence.¹ Other offenders with higher incomes are less likely to be affected by the proposals. Therefore our best estimate is that all offenders from the 'pool' will be negatively affected by the proposals and there is no reason to expect the impact to differ between those with protected and other characteristics.

¹ Information on the benefit status of offenders is taken from the MoJ / DWP / HMRC data share. Out-of-work benefits include Jobseeker's Allowance (JSA), Incapacity Benefit (IB), Passported Incapacity Benefit (PIB), Severe Disablement Allowance (SDA), Employment and Support Allowance (ESA), and Income Support (IS). Analysis of benefit status of offenders sentenced to a fine only covers fines given for the more serious offences - around 20% of all fines given out. Therefore the fines analysis is not necessarily representative of all offenders given fines, so care should be taken when interpreting these findings. Any benefit spells which start or are already open at any point from the month before sentence, to the sentence date are included in this analysis. This means that benefit spells which are open exactly a month before sentence and close before the sentence date will be included in this analysis, as will benefit spells which start the day before sentence date. However, this does not mean that the offender had to be claiming benefits for the entire month before sentence date.

We have also compared the characteristics of offenders affected by the proposals with the characteristics of the general population. Our analysis, in tables 2-6 (Annex B), shows that people aged 18-39, people from the Black ethnic group and men are over-represented amongst those given fine for a recordable offence who were in receipt of out-of-work benefits at some point in the month before sentence compared to the general population.

Mitigation and Justification

We believe that this proposal is justified on the basis of ensuring that financial penalties provide an adequate punishment to offenders. Allowing courts to take into account assets as part of their assessment of offenders' financial circumstances will ensure that those with low incomes but significant amount of assets receive penalties that are both proportionate and equitable in relation to other offenders who have committed similar offences.

Information about offenders' assets will be taken into account by courts alongside wider information about their income and financial circumstances. Courts already have the discretion to take offenders' necessary outgoings and income into account when fixing the value of a financial penalty, and will be bound by Article 8 of the Human Rights Act 1998 to have due regard to the impact of a financial penalty on any dependents of the offender. We think this provides an adequate safeguard to ensure that offenders with protected characteristics are not adversely affected by the proposal to allow courts to consider assets as well as income when fixing the value of a financial penalty.

Promoting greater compliance with community orders

Aims and outcomes for the policy

The consultation paper sought views on how we could ensure that offenders face swift and immediate sanctions for breach of a community order, and suggested that a fixed penalty-type scheme might be one means of doing so. It also sought views on whether such a scheme could be appropriate for administration by offender managers, rather than by courts.

The Government recognises the concerns that respondents have raised about a fixed penalty for certain breaches of community orders, and about giving offender managers the power to impose this. As a result, we do not propose to take forward this option. Instead, we have considered alternative means of making the breach process swifter and more immediate for offenders. For example, a significant cause of adjournment of breach hearings is that the defendant is not present. We propose to work with the courts, judiciary and probation service to explore improvements in operational procedures for dealing with breaches, with the aim of ensuring that offenders are aware of the consequences of breach and that if they do breach, this is dealt with as swiftly as possible.

Analysis

We do not consider that the impact of this proposal will be negative.

People with vulnerabilities such as a physical or sensory disability, mental health problem or learning disability may require increased support to enable them to meet the terms of any community order and the focus should be on ensuring that the additional support is available. The main focus should be on analysing the offender's ability to meet the terms of the order before the order is made, and making a suitable order so that the offender has a reasonable chance to comply. However, these proposals are about dealing with a breach once it has occurred. It is possible that speeding up breach proceedings may impact disproportionately on offenders with a learning disability or mental health issues, as they may be less able to respond quickly to swifter proceedings. We think that in taking forward this work with probation and HMCTS we can consider safeguards to avoid this. For most offenders the proposals will send the clear message that breach will not be tolerated, and might therefore benefit the offender by contributing to a reduction in reoffending. Speeding up the breach process will not compromise the fairness of proceedings.

Mitigation and Justification

We will continue to ensure that courts and offender managers have guidance and support so that they can ensure that any requirement of a community order is suitable for the offender in question, and help them fulfil the requirements of the order. However, this proposal is about the way we deal with offenders once they have breached their order. It will have an impact on breach rates only insofar as it demonstrates that breach will be dealt with swiftly and robustly, and therefore has a deterrent effect on breaches and possible future re-offending. We have not identified any differential or unjustified adverse impact on any group, although as mentioned above we will need to ensure that any proposals to speed up breach hearings will take full account of those with learning disabilities or mental health problems.

More effective use of fines

Aims and outcomes for the policy

The consultation paper set out proposals to promote more flexible use of fines, both instead of and alongside community orders. It also sought views on how to improve the information available to courts about offenders' financial circumstances.

As part of our proposals on a mandatory punitive requirement, we will make it clear that courts can fulfil this duty by imposing a fine on the offender alongside a community order. Alongside this, the Sentencing Council has agreed to consider the inclusion of material on courts' ability to use fine Bands D and E for offences that have crossed the community order threshold in future offence-specific guidelines. They will also consider how best to draw sentencers' attention to their ability to impose a fine alongside a community order.

Finally, we are introducing amendments to the Crime and Courts Bill to allow for DWP and HMRC to share data with HMCTS for the purposes of fixing and enforcing financial penalties. Having access to this data at an earlier stage will improve the financial information available to courts, and allow for more fines to be set at the right level in the first instance. It will also improve the information available to HMCTS for tracing offenders and enforcing payment of outstanding fines.

Analysis

The impact on offenders will be a financial one. There could also be a knock-on impact on offenders with families or other dependants. A number of respondents raised concerns about the potential for imposing fines alongside community orders to have an adverse impact on offenders on low incomes or in receipt of benefits (including those with disabilities).

We have estimated the number of offenders who would be negatively impacted by the proposals, and the number who would be positively or negatively impacted by the proposals, for people with and without each protected characteristic. Offenders given a community order are a proxy and our best estimate of the people who may be negatively impacted by the proposals. All other offenders will be unaffected by the proposals. Therefore all offenders from the affected 'pool' will be negatively affected by the proposals and there is no reason to expect the impact to differ between those with protected and other characteristics.

We have also compared the characteristics of offenders affected by the proposals with the characteristics of the general population. Our analysis, in tables 2-6 (Annex B), shows that people aged 18-39, disabled people, single people, people from the Black ethnic group and men are over-represented amongst those given a community order compared to the general population.

Mitigation and Justification

We believe that this proposal is justified on the basis that it will ensure courts have the maximum flexibility to deal appropriately with offenders whose offence falls short of requiring imprisonment. There will be cases, for example, in which a punitive element within a community order is appropriate, but the court considers that in the circumstances a financial penalty is more suitable than unpaid work or a restriction on liberty such as a curfew. Encouraging greater use of this existing flexibility will allow courts better to tailor punitive elements of a sentence to an offender's circumstances.

While we cannot predict whether this proposal will mean courts are more likely to give some groups of offenders fines than others, there are longstanding legal requirements on courts to have regard to offenders' financial circumstances before fixing the value of a fine. For example, sentencing guidelines already give significant detail for courts to consider when assessing the likely impact of a fine on an offender and any dependents. It will remain a matter for the court as to whether to impose a fine alongside a community order, as it does now. We consider that this will provide an adequate safeguard against any differential impact on offenders serving community sentences in low-income groups.

Information sharing for imposing and enforcing financial penalties

Aims and outcomes for the policy

In *Punishment and Reform* we set out existing work to improve the imposition and enforcement of financial penalties. A number of respondents pointed to the potential positive impact of allowing DWP and HMRC to share information with the courts. This would provide information on the financial circumstances of a defendant who has pleaded or been found guilty and whose sentence would include a financial penalty, to allow courts to make an informed decision on the correct level of fine that should be paid. It would also allow courts to make appropriate payment arrangements; and in some cases decide whether a financial penalty would be an appropriate sentence at all.

In addition, data sharing between DWP and HMRC and the courts would also improve enforcement of outstanding financial penalties. It would help to set more Attachment of Earnings Orders for direct collection of unpaid fines from defaulter's wages, and make improvements in the process of making applications for benefits deductions.

The aims of the policy are therefore:

- to provide courts with more accurate information about offenders' financial circumstances so that they can impose fines that are both proportionate and equitable in relation to earnings;
- to provide courts with information to support more effective enforcement of outstanding financial penalties.

This will ultimately help HMCTS to recover some of the overall outstanding financial penalties owing to the courts (currently standing at over £600 million) as well as improve rates of payment for future financial penalties.

Analysis

The proposal will enable more proportionate and equitable sentencing decisions, by allowing fines to be set accurately in relation to offenders' means and allowing for realistic payment terms. In the absence of such information the courts presume the income of a defendant is £400 per week, and use this as the basis on which the fine is set. Information about the actual income and expenditure would benefit people on lower incomes than this or on benefits if they do not declare their earnings, because they will be given a more equitable fine. It may also help identify cases where a fine may not be appropriate and an alternative sentence may be necessary – for example if people already have other deductions being made from their benefits.

We consider that enabling HMCTS to obtain data from DWP and HMRC may increase the number of Attachment of Earnings Orders (AEOs) and Deduction from Benefit Orders (DBOs) issued in pursuit of unpaid financial penalties. AEOs are payment orders set by the Court which bind the defendant's employer to deduct money from their wages and return it to court. DBOs are payment orders set by a Court which request DWP to deduct money from statutory benefits and return it to court.

Our best estimate of the people who would be negatively impacted by the proposals are those offenders who are on middle or high incomes who may receive higher fines in future if fines are set more accurately. Our best estimate of the people who would be positively impacted by the proposals are those offenders currently in receipt of fines who are on low incomes who may receive lower fines in future. It is difficult to precisely estimate which categories of offender would be affected but our best estimate is those offenders in receipt of out-of-work benefits (the best available proxy for low income that we have) are more likely to be positively affected, and those offenders not in receipt of out-of-work benefits are more likely to be negatively affected (as they are more likely to have higher incomes). Based on the available evidence, we therefore consider that there is the potential for a differential effect, with people aged 18-29 slightly less likely, and people from the Asian or Chinese and Other ethnic groups and men less likely, to be in receipt of out-of-work benefits, and thus more likely to be negatively affected, as shown in tables 7-9 (Annex B).

We have also compared the characteristics of offenders affected by the proposals with the characteristics of the general population. Our analysis, in tables 2-6 (Annex B), shows that people aged 18-39, people from the Black ethnic group and men are over-represented amongst those given a fine for recordable offence and in receipt of out-of-work benefits compared to the general population, and thus may be likely to see the positive impacts, whilst people aged 40-59, people from the White ethnic group and women are under-represented and may be likely to see the negative impacts.

Mitigation and Justification

Information exchange at the pre-conviction stage for the purpose of sentencing

Exchange of information prior to sentencing would allow court staff to carry out searches and inform sentencers of the defendant's financial circumstances, so that they have the information necessary to make an informed decision on the value of the fine.

Courts have an existing obligation to have regard to offenders' financial circumstances before fixing the value of a fine. The proposed measures seek to ensure that the Courts have before them the necessary information to enable the right level of financial penalty to be imposed. Sentencing guidelines already give significant detail for courts to consider when assessing the likely impact of a fine on an offender and any dependents. This is why all defendants are required to complete a means test form setting out their financial circumstances before they appear in court, and either send it to the court before the hearing or bring it to the court on the day of the hearing. The difficulty is that a significant number of offenders do not engage with the courts and therefore do not provide the required information. If people are aware that the courts have access to DWP/HMRC data which does not reflect their outgoings or number of dependants then they would be more likely to provide this information. This would particularly benefit people with caring/parental responsibilities, other debts or higher outgoings.

The proposal would also allow the courts to check whether there are already other deductions from benefits which would also inform sentencing. HMCTS already have access to some information from DWP at the enforcement stage – it allows staff to find out if an offender who has defaulted on payment of a fine is in receipt of a benefit from which deductions can be made for fine payment and therefore allows an application for benefit deductions - Deduction from Benefit Order (DBO). However, HMCTS currently do not have information that would confirm whether the offender already has other deductions from that benefit, with priority over HMCTS fines. By ensuring that more accurate information about other existing deductions is available at the sentencing stage this proposal supports Courts in assessing its sentencing options with regard to people in financial difficulty – for example instead of fine, a community order might be more appropriate.

While we cannot predict whether this proposal will mean courts are more likely to give some groups of offenders fines than others, the main beneficiaries of the proposals would be people on low incomes and on benefits. Fines that take into account the defendants financial circumstances, are set at the correct level and with appropriate payment terms (e.g. can be paid by instalments, or at an alternative venue if access is a problem, etc.) are more likely to be paid. Fines would only be increased from the current level if it was found that the offender could afford more. Fines would be set proportionally to the offenders' income and would therefore not be disproportionately negative in their impact. In some cases where there are already deductions from benefits for example, the sentencers may decide that an alternative sentence to a fine may be more appropriate.

Information exchange at the enforcement stage

The proposed measures seek to ensure that the Courts have before them the necessary information to enable appropriate enforcement measures to be taken. Exchange of information at the enforcement stage would allow court staff to carry out searches and inform sentencers of the offender's financial circumstances, so that they have the information necessary to make an informed decision.

Enabling HMCTS to obtain data from DWP and HMRC may increase the number of Attachment of Earnings Orders (AEOs) and Deduction from Benefit Orders (DBOs) issued in pursuit of unpaid financial penalties. By ensuring that more accurate information about other existing deductions is available, the Courts will be able to assess enforcement options with regard to people in financial difficulty.

Encouraging payment is also of benefit to defendants because defaults in payments may bring further fines and compound the problem and increase the overall debt. Non-payment of a fine can have further implications – for example if a defendant is found to have previous outstanding fines the court could immediately issue an AEO or DBO.

Restorative Justice (RJ)

Aims and outcomes for the policy

The consultation paper sought views on how to build a better evidence base for the use of pre-sentence restorative justice, and on how to maximise benefits and mitigate risks of such interventions. We also asked for feedback on how to strengthen the role of victims in restorative justice, and on how to increase capacity for restorative justice at a local level.

We are introducing an amendment to the Crime and Courts Bill to explicitly provide for courts to defer sentencing to allow for a restorative justice intervention in cases where both victim and offender are willing to participate. Victims and offenders will have to be assessed as suitable and local provision will need to be available. We have also listened to comments by respondents regarding the importance of proper assessments to be undertaken by accredited RJ facilitators. This will be an important component of the cross-CJS framework that is being developed for restorative justice. We have begun to work with the Restorative Justice Council and other partners to consider how awareness of RJ can be improved, how RJ at a local level can be made as accessible as possible and most importantly how accreditation and training standards of RJ practitioners can be maintained and improved.

Analysis

RJ may have positive impacts on offenders if it increases rehabilitation of offenders, and we therefore do not consider there is a risk of indirect discrimination.

The *Breaking the Cycle* consultation highlighted the particular issues that need to be taken into account in using restorative justice appropriately, especially with young people, those with learning disabilities, and in serious sexual or domestic violence cases (which may be more likely to affect women, and lesbian, gay, bi-sexual and transgender victims).

As part of the Community Sentences consultation, some health and third sector organisations have argued that pre-sentence RJ has much to offer offenders with learning disabilities, and might provide benefits in rehabilitation.

It was also felt that if RJ is offered to transgender offenders, they should be accompanied by a friend or professional during the process. An RJ conference will involve a facilitator, the offender and victim and their supporters (if there are any). Professionals (such as social workers) and representatives of the wider community may also be involved.

Mitigation and Justification

Concerns were raised that RJ may not be an appropriate process for the rehabilitation of those convicted of hate crime. We will continue to highlight the Government's position that RJ must be used appropriately and in the right circumstances. This involves ensuring that the process is a voluntary one and that both the victim and offender have been assessed as fully willing and suitable to participate. We have already stated in the Government's response to the 'Getting it Right for Victims and Witnesses' Consultation that we will seek to formalise the process of considering the suitability of cases for RJ, for example through greater use of the Victim of Crime letter and Victim Personal Statement.

We recognise that needs assessment is an important part of the process of identifying what type of support a victim or offender will require. This includes taking into consideration needs such as learning disabilities or mental health issues, and ensuring sufficient safeguards and factors are put in place. We will continue to endorse and make use of best practice standard guidance (provided by the Restorative Justice Council) to this end and provide additional guidance as necessary.

In addition, 'Challenge it, Report it, Stop it: The Government's Plan to Tackle Hate Crime' which was published in March 2012, included a commitment to 'Assess scope for alternative disposals including restorative justice to offer an alternative response to less serious hate crimes' which is to be completed by March 2013. This will allow for these specific concerns to be considered alongside the positive benefits identified by others.

Removing the limit on compensation orders in the magistrates' courts

Aims and outcomes for the policy

We sought views on how to improve the information available to courts about loss, damage or injury caused by offences, so that courts could impose compensation in as many cases as possible. We also proposed to remove the current £5,000 cap on a single compensation order in the magistrates' courts, in line with equivalent provisions for fines in the LASPO Act 2012.

The Government will consider as part of our forthcoming review of the Victim Personal Statement how more effective use of it can be made to provide courts with relevant information about injury, loss or damage an offence has caused to a victim. Alongside this, the Sentencing Council will examine whether changes could be made to guidelines on compensation orders as part of its review of the Magistrates' Courts Sentencing Guidelines. We are introducing an amendment to the Crime and Courts Bill to remove the current £5,000 limit on compensation orders imposed in the magistrates' courts.

Analysis

The impact on offenders will be a financial one. Our analysis has identified that only a small minority of people are currently ordered by magistrates' courts to pay compensation of £4,000 or more.

We have estimated the proportion of offenders who would be negatively impacted by the proposals out of all those who would be positively or negatively impacted by the proposals, for people with and without each protected characteristic. Offenders who currently get a compensation order of £4,000-£5,000 in magistrates' courts are our best estimate of the offenders who may be negatively impacted by the proposals. All other offenders will be unaffected by the proposals. Therefore all offenders from the 'pool' will be negatively affected by the proposals and there is no reason to expect the impact to differ between those with protected and other characteristics.

We have also compared the characteristics of offenders affected by the proposals with the characteristics of the general population. Our analysis, in tables 2-6 (Annex B), shows that people aged 25-29 and men are over-represented amongst those given a compensation order of £4,000-£5,000 in magistrates' courts compared to the general population. However, given the small numbers involved, this analysis should be viewed with caution.

A number of respondents raised concerns about the potential for increased use of compensation orders having an adverse impact on offenders on low incomes or in receipt of benefits (including those with disabilities), and that there could be a knock-on impact on families and other dependants.

Mitigation and Justification

We believe that this proposal is justified on the basis that as many offenders as possible should be required to make reparation to victims, and that compensation orders play a critical role in achieving that aim.

We think any adverse impact will be safeguarded against by existing legislative requirements on courts to have regard to offenders' means when imposing (and setting the amount of) a compensation order. It will be important that we improve the information we have about offenders' financial means (see previous section).

Monitoring

We will be monitoring these reforms for positive, negative and mixed equality impacts. We would require a full year's data on a number of protected characteristics following implementation on which to base a review.

Annex A: Evidence Sources

Data on the characteristics of victims of crime, and the associated general population comparisons, by demographic characteristics are from the CSEW². The CSEW includes data on race, disability, gender, age, religion, sexual orientation and marital status for victims of crime. The CSEW does not include data on the following: gender reassignment, civil partnership or pregnancy and maternity. As such we do not have data relating to these characteristics for victims of crime.

Data on court disposals are from the Court Proceedings Database. This holds information on defendants proceeded against, found guilty and sentenced for criminal offences in England and Wales. It includes information on the age of the defendant, their gender, ethnicity, the police force area and court where proceedings took place as well as the offence and statute for the offence. Information on gender reassignment, disability, pregnancy and maternity, sexual orientation, religion or belief or marriage and civil partnership for criminal offences may be held by the courts on individual case files. However it has not been possible to collate these data for this EIA because of the cost and resource implications associated.

Data on community orders and their requirements are based on further analysis of data published in Offender Management Caseload Statistics. Data are held centrally for ethnicity, gender, age and disability. The MoJ does not hold data on sexual orientation, pregnancy and maternity, religion or belief, gender reassignment or marriage and civil partnership within this administrative data source. Disability data are collected and returned to the centre, but are not deemed sufficiently reliable to use in this EIA.

Data on the disability, marital status and household income of offenders starting community orders are drawn from the first wave of the Offender Management Community Cohort Study (OMCCS), a multi-methods study which employs longitudinal survey methods to track a cohort of adult offenders who commenced a community order between October 2009 and December 2010. The data presented is based on an interim dataset of the survey responses from the 'start of order' baseline interviews. The figures may change when the data is finalised. A total of 2,595 interviews are included in the Wave 1 dataset, representing a response rate of 39 per cent. The results have been weighted to be nationally representative for offenders at tier 2 and

² The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

above.³ The statistics presented in this document have not undergone significance testing.⁴

Data on out-of-work benefit status or P45 employment status is from the joint DWP / HMRC / MoJ data share. In 2010-11 the Ministry of Justice (MoJ), the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC) undertook a data sharing project. The aim of the data-share is to improve the evidence base on the links between offending, employment and benefits to support policy development. The out-of-work benefit data is a proxy measure for low income, which is one way to reflect the likelihood of an offender being on a low income. P45 employment information is generated from P45 returns, which indicate that a person is employed by an organisation, although currently we have no information about earnings or hours associated with this record. The coverage of fines in the shared DWP / HMRC / MoJ data reflects those captured on the Police National Computer (PNC) - less than a fifth of all fines given in Courts. The PNC covers recordable offences, which does not cover some of the less serious summary offences (such as TV licence evasion or less serious motoring offences) which are more likely to result in a fine. The results based on this data should not be interpreted as being representative of all fines, and should therefore be interpreted with care.

Data on the general population of England and Wales by gender, age, marital status and ethnicity used in the comparisons for offenders are from the Office for National Statistics mid-year population estimates. Estimates of the general population with a disability are from the Office for Disability Issues estimates on the prevalence of disability.

We have also reviewed the following reports:

- "Households Below Average Income (HBAI) 1994/95-2010/11" by Department for Work and Pensions (June 2012);
- "Does restorative Justice affect reconviction: The fourth report from the evaluation of three schemes" by Shapland, J et al. Ministry of Justice Research Series 10/08 (2008).

The following assessments only explore equality impacts arising from the policy proposals in relation to the groups affected by the proposals. They are not intended to provide an assessment of the wider factors at play which may explain observed differentials in the distribution of protected characteristics at each stage of the criminal justice system. Such an analysis would consider the extent to which factors other than equality characteristics (such as offence type and offending history) might contribute to the over- or under-representation of particular groups. Two MoJ statistics publications provide

³ Offenders commencing community orders or suspended sentence orders are tiered according to their likelihood of re-offending and their risk of serious harm, and the requirements of their sentence. Higher tier offenders receive higher levels of resource. Tiers 1 and 2 are usually supervised by Probation Service Officers ("PSOs") and tiers 3 and 4 by qualified Probation Officers (POs).

⁴ Significance testing involves standard statistical tests to conclude whether differences in results from a sample survey are likely to be due to chance or represent a real difference.

some of this more detailed analysis: “Statistics on Race and the Criminal Justice System” and “Statistics on Women and the Criminal Justice System”.⁵

Evidence gaps

We note that there is a lack of research or statistical evidence relating to a number of protected characteristics. As part of a wider programme of work, MoJ is looking at how best (and most appropriately) the data gaps that exist might be filled, taking into account cost considerations.

Victims and witnesses

We have not included an analysis of data relating to victims and witnesses with the protected characteristics of gender reassignment, civil partnerships, or pregnancy and maternity, as the CSEW does not include data on these characteristics. The data analysis using the CSEW uses a different definition of an adult than that used in the criminal justice system. In the criminal justice system, adults are defined as those aged 18 and over. The CSEW survey defines adults as those aged 16 and over.

Offenders

Information on the protected characteristics of gender reassignment, disability, pregnancy and maternity, sexual orientation, religion or belief or marriage and civil partnership in respect of offenders may be held by the courts on individual case files. However, it has not been possible to collate these data for this EIA because of the associated cost and resource implications. Some information on disability and marriage or civil partnership is available from the cohort studies of offenders starting community sentences.

As part of the consultation we sought comments specifically on the equality impacts of the proposals and for any information that could be provided to improve our evidence base.

⁵ www.justice.gov.uk/publications/statistics-and-data/criminal-justice/race.htm
www.justice.gov.uk/publications/statistics-and-data/criminal-justice/women.htm

Annex B – Evidence tables

Table 1: Characteristics of adults who were victims of all CSEW crime^(1,2), 2011/12 CSEW

England and Wales	Victims of CSEW crime	Adults aged 16 and over General population ⁽⁵⁾
Age	100%	100%
16-24	21%	15%
25-34	21%	17%
35-44	19%	17%
45-54	18%	17%
55-64	12%	14%
65-74	6%	11%
75+	3%	9%
Long-standing illness or disability	100%	100%
Long-standing illness or disability	25%	27%
<i>Limits activities</i>	18%	18%
<i>Does not limit activities</i>	8%	8%
No long-standing illness or disability	75%	73%
Marital status	100%	100%
Married	44%	51%
Cohabiting	14%	11%
Single	31%	24%
Separated	3%	2%
Divorced	5%	5%
Widowed	3%	6%
Ethnic group	100%	100%
White	85%	88%
Non-White	15%	12%
<i>Mixed</i>	1%	1%
<i>Asian or Asian British</i>	8%	7%
<i>Black or Black British</i>	3%	3%
<i>Chinese or other</i>	2%	2%
Religion	100%	100%
Christian	65%	71%
Buddhist	0%	1%
Hindu	2%	2%
Muslim	6%	4%
Other	2%	2%
No religion	25%	21%

Table 1: Characteristics of adults who were victims of all CSEW crime^(1,2), 2011/12 CSEW

England and Wales	Victims of CSEW crime	Adults aged 16 and over General population⁽⁵⁾
Sex	100%	100%
Men	51%	49%
Women	49%	51%
Sexual identity⁽³⁾	100%	100%
Heterosexual or straight	93%	94%
Gay or lesbian	2%	2%
Bisexual	1%	1%
Other ⁽⁴⁾	3%	4%

(1) Source: Crime Survey for England and Wales, Office for National Statistics. The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to ONS, it was decided that the name change would take effect from 1 April 2012.

[\(2\) See Section 7.3 of the User Guide for definitions of personal characteristics.](#)

(3) The question on the sexual identity of the respondent is asked in the self-completion module of the questionnaire. This module is only asked of those respondents aged 16-59.

(4) The 'Other' category includes those who responded 'Other', those who responded 'Don't know' and those that did not wish to answer the question.

(5) The general population figures are for those aged 16 and over and are based on the CSEW. As such they may provide different estimates of the general population to the comparators used for those starting community sentences in tables 2-6.

Table 2: Age group of offenders affected by the policy proposals

England and Wales

	18 - 20	21 - 24	25 - 29	30 - 39	40 - 49	50 - 59	60+	Total
Punitive element in every community order								
Persons aged 18 and over commencing a Community Order in 2011 under Probation Service supervision without a punitive requirement ⁽¹⁾	11%	15%	18%	30%	18%	5%	1%	100%
Electronic monitoring								
Persons aged 18 and over given Community Orders for indictable offences in 2011 ⁽²⁾	17%	18%	18%	27%	14%	4%	1%	100%
Offenders' assets								
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence ⁽³⁾	12%	19%	17%	26%	19%	7%	n/a	100%
Persons aged 18 and over given a fine for an indictable offence in 2011 ⁽²⁾	14%	20%	20%	25%	15%	5%	2%	100%
More effective use of fines								
Persons aged 18 and over given Community Orders for indictable offences in 2011 ⁽²⁾	17%	18%	18%	27%	14%	4%	1%	100%
Persons aged 18 and over starting Community Orders in 2009/10 who have a household income of less than £5,000 ⁽⁴⁾	14%	19%	45%			22%		100%

Table 2: Age group of offenders affected by the policy proposals

England and Wales

	18 - 20	21 - 24	25 - 29	30 - 39	40 - 49	50 - 59	60+	Total
Information sharing								
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence ⁽³⁾	12%	19%	17%	26%	19%	7%	n/a	100%
Removing the limit on compensation orders in the magistrates' courts								
Persons aged 18 and over given a compensation order in the magistrates' courts of £4,000 - £5,000 ⁽²⁾	2%	8%	30%	21%	21%	14%	4%	100%
General population aged 18 and over - 2011 ⁽⁵⁾								
<i>excluding ages 60+</i>	5%	7%	9%	17%	19%	15%	29%	100%
	7%	10%	12%	23%	26%	22%		100%

Notes

(1) Source: Further analysis of Offender Management Caseload Statistics 2011.

(2) Source: Further analysis of Criminal Justice Statistics 2011.

(3) Source: DWP / HMRC / MoJ data share. Calculated from total number of offenders in the matched data aged 18-59 where age was known. The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). Analysis of benefit status of offenders sentenced to a fine only covers fines given for the more serious offences -around 20% of all fines given out. Therefore the fines analysis is not necessarily representative of all offenders given fines so care should be taken when interpreting these findings.

(4) Source: Interim dataset for the first wave of the Offender Management Community Cohort Study. The figures may change when the data is finalised. Due to weighting there may be rounding errors in the data.

(5) Source: Office for National Statistics mid-year population estimates, 2011.

Table 3: Disability of offenders affected by the policy proposals

England and Wales

	Disabled	Non-disabled	Total
Punitive element in every community order			
Persons aged 18 and over commencing a Community Order in 2009/10 under Probation Service supervision without a punitive requirement ⁽¹⁾	39%	61%	100%
Electronic monitoring			
Persons aged 18 and over starting Community Orders in 2009/10 ⁽¹⁾	33%	67%	100%
Offenders' assets			
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence	n/a	n/a	n/a
Persons aged 18 and over given a fine in 2011	n/a	n/a	n/a
More effective use of fines			
Persons aged 18 and over starting Community Orders in 2009/10 ⁽¹⁾	33%	67%	100%
Persons aged 18 and over starting Community Orders in 2009/10 who have a household income of less than £5,000 ⁽¹⁾	40%	60%	100%
Information sharing			
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence	n/a	n/a	n/a
Removing the limit on compensation orders in the magistrates' courts			
Persons aged 18 and over given a compensation order in the magistrates' courts of £4,000 - £5,000	n/a	n/a	n/a
General population of GB aged 16 and over - 2009/10 ⁽²⁾	22%	78%	100%

Notes

(1) Source: Interim dataset for the first wave of the Offender Management Community Cohort Study. The figures may change when the data is finalised. Due to weighting there may be rounding errors in the data. Based on those who answered 'Yes' to '**Do you have any longstanding illness, disability, or infirmity of any kind such as ones listed on this card. By longstanding I mean anything that has troubled you over a period of time or that is likely to affect you over a period of time.**' and answered 'A great deal' or 'To some extent' to the question '**To what extent, if any, does your health condition or disability limit your ability to carry out everyday activities - a great deal, to some extent, a little or not at all?**'. This is our best estimate of those people who would be defined as disabled under the Equality Act 2010, and is a comparable definition to that used for the disability estimates produced from the Family Resources Survey and the Life Opportunities Survey.

(2) Source: Office for Disability Issues disability prevalence estimates for 2009/10 based on the Family Resources Survey. Based on those that said that they had a longstanding illness, disability or infirmity, and who had a substantial difficulty with day-to-day activities. Longstanding is defined as anything that has troubled the person over a period of at least 12 months or that is likely to affect the person over a period of at least 12 months.

Table 4: Marital status of offenders affected by the policy proposals
England and Wales

	Married	Living with a partner	Single, never married	Divorced	Separated	Other (including widow)	Total
Punitive element in every community order							
Persons aged 18 and over commencing a Community Order in 2009/10 under Probation Service supervision without a punitive requirement ⁽¹⁾	8%	16%	59%	9%	8%	1%	100%
Electronic monitoring							
Persons aged 18 and over starting Community Orders in 2009/10 ⁽¹⁾	8%	18%	59%	7%	7%	1%	100%
Offenders' assets							
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Persons aged 18 and over given a fine in 2011	n/a	n/a	n/a	n/a	n/a	n/a	n/a
More effective use of fines							
Persons aged 18 and over starting Community Orders in 2009/10 ⁽¹⁾	8%	18%	59%	7%	7%	1%	100%
Persons aged 18 and over starting Community Orders in 2009/10 who have a household income of less than £5,000 ⁽¹⁾	2%	11%	69%	8%	9%	2%	100%

Table 4: Marital status of offenders affected by the policy proposals
England and Wales

	Married	Living with a partner	Single, never married	Divorced	Separated	Other (including widow)	Total
Information sharing							
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Removing the limit on compensation orders in the magistrates' courts							
Persons aged 18 and over given a compensation order in the magistrates' courts of £4,000 - £5,000	n/a	n/a	n/a	n/a	n/a	n/a	n/a
General population aged 18 and over - 2010 ⁽²⁾	50%	n/a	34%	10%	n/a	7%	100%

Notes

(1) Source: Interim dataset for the first wave of the Offender Management Community Cohort Study. The figures may change when the data is finalised. Due to weighting there may be rounding errors in the data.

(2) Source: Office for National Statistics mid-year population estimates by marital status, 2010.

Table 5: Ethnic group of offenders affected by the policy proposals
England and Wales

	White	Mixed	Black	Asian	Other	Not stated	Unknown	Total
Punitive element in every community order								
Persons aged 18 and over commencing a Community Order in 2011 under Probation Service supervision without a punitive requirement ⁽¹⁾	87%	3%	4%	3%	1%	1%	1%	100%
<i>excluding unknown</i>	88%	3%	4%	3%	1%	1%		100%
Electronic monitoring								
Persons aged 18 and over given Community Orders for indictable offences in 2011 ⁽²⁾	79%	n/a	7%	4%	1%	n/a	9%	100%
<i>excluding unknown</i>	87%	n/a	8%	4%	1%	n/a		100%
Offenders' assets								
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence ⁽³⁾	81%	3%	7%	4%	0%	3%	2%	100%
<i>excluding unknown</i>	83%	3%	7%	4%	0%	3%		100%
Persons aged 18 and over given a fine for an indictable offence in 2011 ⁽²⁾	73%	n/a	10%	5%	1%	n/a	11%	100%
<i>excluding unknown</i>	82%	n/a	11%	6%	1%	n/a		100%
More effective use of fines								
Persons aged 18 and over given Community Orders for indictable offences in 2011 ⁽²⁾	79%	n/a	7%	4%	1%	n/a	9%	100%
<i>excluding unknown</i>	87%	n/a	8%	4%	1%	n/a		100%

Table 5: Ethnic group of offenders affected by the policy proposals
England and Wales

	White	Mixed	Black	Asian	Other	Not stated	Unknown	Total
Persons aged 18 and over starting Community Orders in 2009/10 who have a household income of less than £5,000 ⁽⁴⁾	85%	3%	7%	4%	2%	n/a	0%	100%
<i>excluding unknown</i>	85%	3%	7%	4%	2%	n/a		100%
Information sharing								
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence ⁽³⁾	81%	3%	7%	4%	0%	3%	2%	100%
<i>excluding unknown</i>	83%	3%	7%	4%	0%	3%		100%
Removing the limit on compensation orders in the magistrates' courts								
Persons aged 18 and over given a compensation order in the magistrates' courts of £4,000 - £5,000 ⁽²⁾	51%	n/a	2%	3%	3%	n/a	42%	100%
<i>excluding unknown</i>	88%	n/a	3%	4%	4%	n/a		100%
General population aged 18 and over - 2009⁽⁵⁾								
	89%	1%	3%	6%	2%	n/a	n/a	100%
<i>excluding unknown</i>	89%	1%	3%	6%	2%	n/a		100%

Notes

(1) Source: Further analysis of Offender Management Caseload Statistics 2011. Based on the 5+1 self-defined ethnicity classification.

(2) Source: Further analysis of Criminal Justice Statistics 2011. Based on the 4+1 visual appearance ethnicity classification.

(3) Source: DWP / HMRC / MoJ data share. Based on the 5+1 self-defined ethnicity classification. Calculated from total number of offenders in the matched data aged 18-59 where age was known. The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). Analysis of benefit status of offenders sentenced to a fine only covers fines given for the more serious offences -around 20% of all fines given out. Therefore the fines analysis is not necessarily representative of all offenders given fines so care should be taken when interpreting these findings

(4) Source: Interim dataset for the first wave of the Offender Management Community Cohort Study. The figures may change when the data is finalised. Due to weighting there may be rounding errors in the data. Based on the 5+1 self-defined ethnicity classification.

(5) Source: Office for National Statistics population estimates by ethnic group, 2009. As experimental estimates, work on the quality of these statistics is ongoing; these figures are indicative only. Based on the 5+1 self-defined ethnicity classification.

Table 6: Sex of offenders affected by the policy proposals

England and Wales

	Male	Female	Total
Punitive element in every community order			
Persons aged 18 and over commencing a Community Order in 2011 under Probation Service supervision without a punitive requirement ⁽¹⁾	79%	21%	100%
Electronic monitoring			
Persons aged 18 and over given Community Orders in 2011 ⁽³⁾	83%	17%	100%
Offenders' assets			
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence ⁽²⁾	85%	15%	100%
Persons aged 18 and over given a fine in 2011 ⁽³⁾	71%	29%	100%
More effective use of fines			
Persons aged 18 and over given Community Orders in 2011 ⁽³⁾	83%	17%	100%
Persons aged 18 and over starting Community Orders in 2009/10 who have a household income of less than £5,000 ⁽⁴⁾	83%	17%	100%
Information sharing			
Persons aged 18 and over given a fine for a recordable offence in the year ending 30 November 2010 who claimed out-of-work benefits at some point in the month before sentence ⁽²⁾	85%	15%	100%
Removing the limit on compensation orders in the magistrates' courts			
Persons aged 18 and over given a compensation order in the magistrates' courts of £4,000 - £5,000 ⁽³⁾	71%	29%	100%

Table 6: Sex of offenders affected by the policy proposals

England and Wales

	Male	Female	Total
General population aged 18 and over - 2011 ⁽⁵⁾	49%	51%	100%

Notes

(1) Source: Further analysis of Offender Management Caseload Statistics 2011.

(2) Source: DWP / HMRC / MoJ data share. Calculated from total number of offenders in the matched data where sex was known. Includes a small proportion of offenders aged 60 years or older, where out-of-work benefits are not a relevant proxy for low income. The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). Analysis of benefit status of offenders sentenced to a fine only covers fines given for the more serious offences -around 20% of all fines given out. Therefore the fines analysis is not necessarily representative of all offenders given fines so care should be taken when interpreting these findings

(3) Source: Further analysis of Criminal Justice Statistics 2011.

(4) Source: Interim dataset for the first wave of the Offender Management Community Cohort Study. The figures may change when the data is finalised. Due to weighting there may be rounding errors in the data.

(5) Source: Office for National Statistics mid-year population estimates, 2011.

Table 7: Out-of-work benefit status of offenders at some point in the month before sentence, by age, for offenders sentenced to a fine in the year ending 30 November 2010 for an offence recorded on the PNC

Aged 18 and over

	Age group						<i>Total</i> %	Total
	18- 20	21- 24	25- 29	30- 39	40- 49	50- 59		
Proportion of sentences received	13%	20%	19%	25%	17%	7%	100%	144,900
Percentage who claim out-of-work benefits	47%	45%	46%	51%	53%	50%	49%	70,800

Source

DWP / HMRC / MoJ data share

Notes

Calculated from total number of offenders in the matched data aged 18-59 where age was known

The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). The PNC largely covers 'recordable' offences. However, the PNC does not generally cover the less serious summary offences such as TV licence evasion and less serious motoring offences, which are more likely to receive a sentence of a fine. Coverage across all sentence types is generally very high with the exception of fines, where the PNC includes less than a fifth (19 per cent) of all fines given out by the courts. As a result, care must be taken when interpreting the findings.

Table 8: Out-of-work benefit of offenders at some point in the month before sentence, by stated race, for offenders sentenced to a fine in the year ending 30 November 2010 for an offence recorded on the PNC

Aged 18 and over

	Ethnic group					Total %	Total
	White	Mixed	Asian or Asian British	Black or Black British	Chinese or Other		
Proportion of sentences received	84%	3%	5%	7%	1%	100%	136,500
Percentage who claim out-of-work benefits	50%	57%	35%	52%	31%	50%	67,900

Source

DWP / HMRC / MoJ data share

Notes

Calculated from total of offenders in the matched data where age and race was known

Excludes 'not stated' ethnicity.

Includes a small proportion of offenders aged 60 years or older, where out-of-work benefits are not a relevant proxy for low income.

The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). The PNC largely covers 'recordable' offences. However, the PNC does not generally cover the less serious summary offences such as TV licence evasion and less serious motoring offences, which are more likely to receive a sentence of a fine. Coverage across all sentence types is generally very high with the exception of fines, where the PNC includes less than a fifth (19 per cent) of all fines given out by the courts. As a result, care must be taken when interpreting the findings.

Table 9: Out-of-work benefit status of offenders at some point in the month before sentence, by sex, for offenders sentenced to a fine in the year ending 30 November 2010 for an offence recorded on the PNC

Aged 18 and over

	Sex			Total
	Females	Males	Total %	
Proportion of sentences received	14%	86%	100%	149,800
Percentage who claim out-of-work benefits	53%	47%	48%	71,700

Source

DWP / HMRC / MoJ data share

Notes

Calculated from total number of offenders in the matched data where age and gender was known

Includes a small proportion of offenders aged 60 years or older, where out-of-work benefits are not a relevant proxy for low income.

The main offender data included in the matched data is from the MoJ extract of the Police National Computer (PNC). The PNC largely covers 'recordable' offences. However, the PNC does not generally cover the less serious summary offences such as TV licence evasion and less serious motoring offences, which are more likely to receive a sentence of a fine. Coverage across all sentence types is generally very high with the exception of fines, where the PNC includes less than a fifth (19 per cent) of all fines given out by the courts. As a result, care must be taken when interpreting the findings.

Annex C: Consultation and Engagement

On 27 March 2012, the Government published the consultation document *Punishment and Reform: Effective Community Sentences*. The consultation set out wide-ranging proposals to reform community sentences so that they can be effective both at reducing re-offending and providing robust and credible punishment.

The consultation closed on 22 June 2012. In total we received 247 written responses. We also held a number of events to ensure that we captured the views of relevant stakeholders, practitioners, and offenders:

- Two consultation events in London and Manchester, attended by sentencers, probation officers, and other practitioners working with offenders in the private, public and third sectors.
- Three workshops with magistrates, court legal advisers and probation officers to explore in detail proposals specifically related to community orders.
- A workshop with criminal justice practitioners to explore the equality impacts of the proposals, as well as a meeting with a third sector organisation providing support for offenders with multiple needs, including mental health problems.

The consultation explored how the needs of the various groups could be met, or within the new framework and, in which circumstances, specific groups of offenders with certain protected characteristics should be exempt from some aspects of the proposals. This document explores where mitigation can be put in place to ensure that groups with protected characteristics are not adversely affected by the proposals.

Annex D: General equalities considerations

Consultation responses included a number of overarching comments about equality issues in relation to sentencing and offender management, which were not specific to proposals in the consultation. This section summarises this feedback and work already in place to address these issues.

Liaison and diversion services

Respondents argued that MoJ commitments to address mental health issues by working with the Department for Health and Home Office to roll out liaison services in police custody and courts is a vast area of work and needed more explanation, and that increased liaison and diversion schemes attached to police and courts would allow people's needs to be identified pre-sentence and for appropriate disposals to be developed. The Government agrees that custody is not the most appropriate place for some individuals with mental health needs. Supporting the roll out of comprehensive liaison and diversion schemes for offenders with mental health and other vulnerabilities is a business plan commitment for Department of Health, Home Office and Ministry of Justice.

Subject to business case approval, the Government is committed to roll out access to liaison and diversion services at police custody suites and courts by 2014. Liaison and Diversion services will cover police custody suites and criminal courts and be open to all offenders – whether adult men, women, children or young people – and will cover a range of vulnerabilities specific to age groups. They will aim to ensure that wherever an offender is in the criminal justice system their health needs are known, provided for by appropriate treatment services and enable the police and courts to make informed decisions about charging and sentencing. Services will cover a wide range of health issues and vulnerabilities, relevant to all ages (including mental health, learning disabilities, substance misuse, speech, language & communication need, physical health, less severe personality disorder, and safeguarding issues).

Liaison and Diversion Services will be configured and equipped to deal with all offenders, including women, at an early stage of their contact with the Criminal Justice System. They will be able to refer into more specific services, including gender specific services, where appropriate. The Government is committed to looking specifically at how to tackle women's offending. This includes punishing offenders, but also taking the needs of female offenders into account, as appropriate, throughout the system to ensure that they are reformed.

As part of the wider Liaison and Diversion Development Programme, MoJ is also working with Department of Health to test robust community orders combined with treatment requirements as an alternative to custody at the point of sentencing. The project is restricted to those offenders who have mental

health problems, including personality disorder, and/or a substance misuse problem and whose index offence and risk of reoffending is of sufficient seriousness to attract a prison sentence of up to 12 months.

No matter where an offender accesses the CJS, it is intended they receive a service that is co-ordinated and consistent; this improves treatment outcomes and integration into mainstream community services. Offenders should experience a measurable improvement in their health and well-being, particularly in respect of substance misuse and their mental health.

Sentencing and Offender Management

Concerns were raised that sentencing need to be consistent with the needs and circumstances of the offender. The courts will always take the individual circumstances of the offender and the offence into account when the sentence is not fixed by law. The sentence imposed will depend on the seriousness of the offence and, in considering this, the law requires the court to consider both the offender's culpability in committing the offence and the harm that was caused, was intended, or might have been caused. When imposing a community order the law again requires that the requirements chosen are the most suitable for the offender.

Comments were made about the lack of specific mention in the consultation document on work for hate crime perpetrators. This was a concern raised by the EHRC Inquiry into the Harassment of Disabled People and the following commitments were included in the Government's 'Challenge it, Report it, Stop it: The Government's Plan to Tackle Hate Crime' report:

- 'Identify areas across the criminal justice system, where the collection and dissemination of data could be improved, for example, transgender hate crime'; and
- 'Produce a Hate Crime framework covering prisons and the Probation Service, for those responsible for managing offenders risk management/sentence plans. To assist staff in identifying, assessing, intervening and managing people involved in hate related offending'.

Respondents to the consultation raised a number of issues in relation to the management of offenders on community sentences. It was suggested that probation practitioners should receive specific training in dealing with transgender people such as is now provided to prison officers; that staff writing pre-sentence reports (PSRs) should have appropriate equality training including on the associated cost of disability and how to assess disabled people individually; that policies, working practices, new delivery programmes and commissioned services apply equally to same sex relationships as they do between people of the opposite gender; that all services that are commissioned must include sexual orientation monitoring and inclusion of meeting needs of LGB&T service users within all contracts as standard policies; that there should be a specific strategy for 18-24 year olds; and that services should meet the needs of women.

The Government's general position in terms of the management of equalities issues in probation is that, as well as probation trusts themselves being subject to the Equality Act 2010 and the public sector duty within it, there is a clause in their contracts requiring legal compliance on equalities issues and a regular report on equalities activities and outcomes to the National Offender Management Service (NOMS). This is managed by contract managers in the Probation and Contracted Services Directorate.

In addition to this the NOMS Women and Equalities Group provides direct support to probation trusts and organises the national Equalities Development Group - a network for the equalities leads in each of the trusts which meets regularly to discuss key operational issues. This network enables the sharing of good practice and identifies gaps in existing guidance - for instance as a result of a meeting of the network NOMS is currently taking forward work on guidance on working with transsexual offenders which will go some way to addressing the highlighted point about training for work with this group.

A number of the points that have been highlighted are about training for staff engaged in reporting on and/or supervising offenders. The current position is that the initial training of all probation staff is centrally overseen, and we are confident that this includes a diversity component. Probation staff receive a high level of equalities training either on short specific cases or as part of their qualification training. Ongoing training for probation staff, and the training of staff working for other providers, is the responsibility of the employer (probation trust or contracted company / VCS group), and is one of the ways that they would be expected to demonstrate compliance with the equality clause in their contracts as described above.

There is currently limited monitoring data on offenders subject to community sentences. NOMS is working to improve this, both in terms of the range of outcomes on which data is collected, and in terms of coverage across the protected characteristics. This will enable NOMS to improve performance across all equalities issues, but will be particularly important in terms of the protected characteristics that have not previously been monitored, such as sexual orientation and religion. Collecting this data is the first step in ensuring that services are responsive to the needs of Lesbian, Gay and Bisexual (LGB) offenders - one of the specific points that raised.

NOMS has established a Learning Disabilities and Difficulties (LDD) Working Group that brings together key players across health, education and the voluntary sector, as well as the various interested parties within NOMS, to ensure joined up working on LDD issues. The group is focused initially on ensuring that a screening tool for LDD is rolled out across the system to ensure that all offenders with LDD are identified as early as possible in their engagement with NOMS. The group is working also on information sharing between the various agencies involved in service provision, and on improving guidance on reasonable adjustments to ensure that they are consistently made across the system. The 'NOMS Commissioning Intentions for 2013-14' document, designed to drive the commissioning of services for the next business year, will draw attention to the particular needs of offenders with LDD, and will be supported by a guidance document on 'Better Outcomes for

Offenders with LDD, which is being produced by NOMS Commissioning Strategies Group.

Some comments were made suggesting a specific strategy for 18-24 year olds. Young adults as a distinct group (whether 18-21, 18-24, or other definition) are not homogenous. The preferred approach for managing young adults (whether 18-21, 18-24, or other definition) has been to manage them on the basis of individual assessments of risk of harm, likelihood of re-offending and offending associated needs. Age would be taken into account in this assessment process. Our policy has been to ensure that the needs of young adults are identified and addressed within the resources we have available. Prisons and probation trusts have responsibility to use individual assessment to determine the needs of offenders rather than designating need because of the age group. Those who commission and deliver services have been encouraged to make decisions locally about how to use resources to improve outcomes for all offenders including young adults, rather than prescribing from the centre. We are continuing to monitor the needs of this particular age group and have been discussing the most effective ways of managing them with prison and probation colleagues. Lack of maturity in young adult offenders was recently recognised; in March 2011, the Sentencing Council included age and/or lack of maturity where it affects the responsibility of the offender as one of the factors reducing seriousness or reflecting personal mitigation in its final guidelines on assault, which came into force in June 2011. Lack of maturity has since been included in subsequent sentencing guidelines for adults on burglary and drugs. Additionally, in response to gaps noticed in transitions between juvenile and adult services, the Ministry of Justice, National Offenders Management Service and Other Government Departments are working on projects led by the Youth Justice Board to ensure that transfers between services are less problematic both in the justice system and in other key services, particularly mental health.

A number of comments were made in respect of female offenders and ensuring services meet their needs. The Commissioning Intentions discussion document for 2013-2014 requires Probation Trusts and other providers to show how they are providing, and will provide, the right services to enable women to complete their sentences and reduce their risk of reoffending. It also specifically outlines the opportunities for Women's Community Services to enhance the community based sentences for female offenders. Trusts have been asked to respond specifically to the report of the joint thematic inspection report "Equal but Different" and show that they can meet the requirements of the report as part of the process to renew their contracts.

The Corston Report (published March 2007) called for a radical change in the way women are treated throughout the whole of the criminal justice system, treating women both holistically and individually. The Government response, published December 2007 accepted 40 out of the 43 recommendations and made a range of commitments across Government departments to take these forward, many of which have now been actioned.

As part of NOMS commitment to providing enhanced services to women, its commissioners are building up an evidence base of best practice and visiting sites of excellence to inform next years commissioning round. For example, following replies to the community sentence consultation which highlighted Anawim centre in the West Midlands, the senior commissioners responsible for provision for women have recently visited it to identify practice that could improve provision else where in England and Wales.

The Ministry of Justice and Government Equalities Office are each providing £150k infrastructure funding over three years (2011/12 – 2013/14) to Women's Breakout to provide a voice and support for women's community services, including Anawim, working to support female offenders. Women's Breakout have established groups where member organisations can come together to explore ideas and share good practice.

NOMS is also providing £3.5m via Probation Trusts to support 30 Women's Community Services in 2012/13. This is in addition to Probation Trusts' basic settlements and is given with a contractual expectation of enhanced services to female offenders. This funding will be embedded in the NOMS community budget baselines to allow for continued support of provision for women in years to come.

During the Parliamentary Passage of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 Lord McNally made a commitment to publish a short document setting out the Government's strategic priorities for female offenders. This will be published before the end of the year on the MoJ website and will be a living document that is updated regularly. Accountability and leadership for the cross-Government women's agenda is the responsibility of Helen Grant, Joint Parliamentary Under-Secretary of State for Justice and for Women and Equality issues.

In terms of equalities issues more generally, the 'NOMS Commissioning Intentions for 2013-14' document acknowledges that "the monitoring data published in the NOMS Equalities Annual Report 2010-11 shows that there are persistent differences in interventions and outcomes for offenders from different groups. It goes on to commit NOMS to action to "continue to build the evidence base on the needs of particular groups, identify contributory factors leading to negative differences in outcomes and take further action to address them", and states that NOMS expects service providers to "work with us to understand better how the services that we commission can be more responsive to the needs of offenders with protected characteristics".