

<b>Title:</b> LASPO amendments - Alcohol Abstinence and Monitoring Requirement <b>IA No:</b> <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> National Offender Management Service, HM Courts & Tribunals Service, Legal Services Commission	<b>Impact Assessment (IA)</b>	
	<b>Date:</b> 16/03/2012	
	<b>Stage:</b> Final	
	<b>Source of intervention:</b> Domestic	
	<b>Type of measure:</b> Primary legislation	
<b>Contact for enquiries:</b> Helen Whitehouse Helen.Whitehouse@justice.gsi.gov.uk		
<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£m	£m	£m	No
			NA

**What is the problem under consideration? Why is government intervention necessary?**  
It is estimated that around 44% of all violent offences are committed by offenders under the influence of alcohol (BCS 2010/11); the total cost of alcohol related crime in the UK is between £8 billion and £13 billion per year (in 2003 prices). The courts are currently able to impose an Alcohol Treatment Requirement as part of a Community Order or a Suspended Sentence Order for offenders who are dependent upon alcohol, with their consent. In addition, they can make use of activity requirements for offenders to undertake alcohol awareness courses and receive support and guidance services. However, alcohol related crime is still a considerable issue, particularly for those who misuse alcohol but who are not dependent and we need to look at further tools in which to address such behaviour.

**What are the policy objectives and the intended effects?**  
The Government wants to make use of Alcohol Abstinence and Monitoring Requirements - which require the offender to abstain from drinking for a set period - as part of our response to tackling and reducing the volume of alcohol-related crime (e.g. taking away the factor that caused the offending for a period). It also aims to ensure that there are robust and demanding consequences of abusing alcohol and committing crime as a result; that it deters offenders from committing further alcohol related crime and also to make the public safer by breaking the cycle of crime.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
Option 0 – do-nothing – maintain the current requirements of Community Orders and Suspended Sentence Orders available to the courts  
  
Option 1 – introduce Government amendment to enable the courts to impose an Alcohol Abstinence and Monitoring Requirement on those offenders who have committed offences serious enough to warrant a community order, where alcohol is a contributing factor.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 2013					
Does implementation go beyond minimum EU requirements?				Yes / No / N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> Yes/No	<b>&lt; 20</b> Yes/No	<b>Small</b> Yes/No	<b>Medium</b> Yes/No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b>		<b>Non-traded:</b>	

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible SELECT SIGNATORY: ..... Date: .....

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Give courts the power to impose an Alcohol Abstinence and Monitoring Requirement for those offenders who have committed certain offences which meet the threshold of a community order or suspended sentence order where alcohol is a contributing factor. The Secretary of State for Justice could commence this provision in certain geographic areas, enabling the Ministry of Justice to test compulsory sobriety schemes that may be imposed as part of Community Orders and Suspended Sentence Orders.

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

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

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

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

Local Probation Trusts may incur monitoring costs and breach costs in those areas where the Secretary of State for Justice has commenced the provisions. NOMS and HMCTS may also incur costs from additional prison places and additional court time in these areas.

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

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

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

If alcohol related re-offending is reduced, then there may be social benefits through lower social costs of crime. There may also be reduced demand for prison places.

### Key assumptions/sensitivities/risks

Discount rate (%)

While we have information relating to the number and proportion of alcohol related crimes that occurred in 2010/11, we cannot predict how often the courts may impose the Alcohol Abstinence and Monitoring Requirement. The extent to which compulsory abstinence may reduce re-offending is not known. As this provision will only be commenced in certain geographic areas, the Government will keep these areas under review to monitor the effectiveness of this policy in reducing alcohol related re-offending.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT/Zero net cost

# Evidence Base (for summary sheets)

## Introduction:

1. The Ministry of Justice (MoJ) published a consultation document entitled 'Breaking the Cycle: effective punishment, rehabilitation and sentencing of offenders' (Breaking the Cycle) on 7 December 2010. It set out proposals to reform to ensure more effective punishment and rehabilitation of offenders. The Government published its response to the consultation exercise in June 2011. The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Bill was also published in June 2011, a cumulative impact assessment on the sentencing components of the LASPO Bill was published on the 14th November 2011 on introduction of the Bill to the Lords to reflect changes to the Bill made during the passage through the House of Commons.
2. This Impact Assessment accompanies a Government amendment that is being tabled in the House of Lords Report Stage of the LASPO Bill to introduce a new requirement- the Alcohol Abstinence and Monitoring Requirement- that may be imposed as part of a community order or suspended sentence order.
3. The Government aims to reform how offenders are punished and rehabilitated in a way that delivers value for money and is consistent with the Spending Review obligations of the MoJ.

## Background:

4. The Criminal Justice Act (2003) created a single community order, which replaced all previous adult community sentences. Community orders are designed to restrict an offender's liberty while providing punishment in the community, rehabilitation for the offender and ensuring the offender engages in reparative activities. Community orders consist of one or more of a number of possible requirements, each aimed at achieving one or more specific outcomes. They may last for up to three years. If a Community Order is breached, the court can amend it by making it more onerous, or it can revoke and re-sentence the offender, which may mean custody. Provisions already in this Bill would add a new requirement and add new court powers to deal with breach.
5. The Criminal Justice Act (2003) also created a Suspended Sentence Order, which is a suspended custodial sentence of up to a year.
6. Currently the 12 requirements available for Community Orders and Suspended Sentence Orders are:
  - Unpaid work
  - Supervision
  - Accredited programme
  - Drug rehabilitation
  - Alcohol treatment
  - Mental health treatment
  - Residence
  - Specified activity
  - Prohibited activity
  - Exclusion
  - Curfew
  - Attendance centre

The LASPO Bill will add a foreign travel prohibition requirement, as well as the alcohol abstinence and monitoring requirement which is the subject of this assessment.

7. 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).
8. The accompanying Government amendment adds an additional requirement- the Alcohol Abstinence and Monitoring Requirement- available for use by Court as part of a community order or suspended sentence order.

**Organisations in scope of these proposals:**

9. The main groups affected by these proposals are:
  - Ministry of Justice;
  - National Offender Management Service (“NOMS”) – an executive agency of the Ministry of Justice, bringing together the headquarters of the Probation Service and HM Prison Service to enable more effective delivery of services;
  - HM Courts and Tribunals Service (“HMCTS”) – an executive agency of the Ministry of Justice responsible for the administration of the criminal, civil and family courts and tribunals in England and Wales;
  - Local Probation Trusts;
  - Police Forces;
  - The Judiciary;
  - Offenders;
  - Voluntary organisations;
  - Victims; and
  - Members of the public

**Problem under consideration:**

10. Alcohol related offending causes a great deal of harm to society. In 2010/11, around 44% of all violent offences were thought to be committed by offenders under the influence of alcohol, according to the British Crime Survey (“BCS”). Based on the 2010/11 BCS, there were 928,000 violent incidents where the victim believed the offender(s) to be under the influence of alcohol<sup>1</sup>. Results from the 2010/11 BCS also showed that 20% of all violence occurred in or around a pub or club and 45% of all violent offences between Friday evening and Monday morning.
11. The total cost of alcohol related crime in the UK is estimated to be between £8 billion and £13 billion per year (in 2003 prices)<sup>2</sup>. This estimate takes into account the costs in anticipation of crime, the direct physical and emotional costs to victims, the value of lost output, and the costs to the health service and Criminal Justice System.

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<sup>1</sup> British Crime Survey 2010/11 - [www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/nature-violent-crime?view=Binary#7.11!A1](http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/nature-violent-crime?view=Binary#7.11!A1)

<sup>2</sup> Home Office impact assessment 2008 - [www.ialibrary.bis.gov.uk/uploaded/IA%20Alcohol%20Mandatory%20Code.pdf](http://www.ialibrary.bis.gov.uk/uploaded/IA%20Alcohol%20Mandatory%20Code.pdf)

**Figure 1: Proportion of violent incidents where the victim believed the offender(s) to be under the influence of alcohol**

	Offender perceived to be under the influence of alcohol
Offence type	
All violence	44%
Wounding	56%
Assault with minor injury	43%
Assault without injury	42%
Robbery	26%
Violence type	
Domestic	31%
Acquaintance	40%
Stranger	58%
Mugging (robbery & snatch theft)	24%

Source: Home Office, British Crime Survey 2010/11 supplementary tables<sup>3</sup>.

12. For offenders who are dependent upon alcohol, which is linked to their offending behaviour, and who pass the community sentence threshold, the Alcohol Treatment Requirement (ATR) is available as part of a community or suspended sentence order. We are taking steps through the LASPO Bill to make it easier for the court to impose these requirements by removing the limit on their minimum length. This will allow the court to impose an ATR in circumstances where they wish to apply a shorter period of intensive, upfront treatment as part of the order which can be followed up by further, more informal ongoing support through community health services.
13. However, a significant number of alcohol-related offences are not committed by dependent drinkers but rather those who misuse alcohol. For offenders who do not reach the dependency threshold, the courts can make use of supervision and activity requirements to signpost them into support and advice services to help tackle their needs, and programme requirements which specifically address their offending behaviour. We are undertaking work to encourage greater use of alternative options for delivering alcohol-specific interventions to problematic drinkers such as Alcohol Specified Activity Requirements (ASARs) which have been introduced in some areas.

#### **Rationale for intervention;**

14. The number of crimes committed by offenders under the influence of alcohol though, remains very high and the social costs of this are large. The Government therefore considered that there is additional scope to look at alternative interventions to help tackle alcohol related crime further. To this end, we want to replicate some aspects of compulsory sobriety schemes which have been operated to some success in the USA, notably in South Dakota, as a demanding means of tackling high level alcohol-related crime including drink drinking and violent offending.
15. The South Dakota scheme combined intensive testing and monitoring of drug and alcohol consumption with swift and certain punishment for infractions, for those convicted of driving under the influence (DUI) offences. It was also paired with education and change offenders' behaviour. DUI offences were identified as a significant problem for South Dakota, being a rural state with a sparse population and little public transport. In the analysis of the scheme, there were no statistically significant differences in the 3-year follow up arrest rates among for first time offenders. For second and third time offenders, there were statistically significant reductions in the 3-year arrest rates. This impact was diminishing as the number of previous drink driving offences increased: 74% reduction in recidivism rates for second time offenders; 44% for third

<sup>3</sup> NB: Questions asked only if the victim was able to say something about the offender(s), and if there was more than one offender, victims were asked if any of the offenders were perceived to be under the influence. Questions were not asked if any offender(s) were perceived to be under school age.

time offenders and 31% for fourth time offenders (not statistically significant). There are significant differences in institutional and legal arrangements between South Dakota and that of England and Wales meaning that we should be careful about drawing any inferences from this programme.

16. The Government therefore wants to understand the potential impact of such a scheme and whether such findings are applicable in England and Wales. This amendment will therefore enable us to test compulsory sobriety schemes, through the Alcohol Abstinence and Monitoring Requirement, as part of Community Orders and Suspended Sentence Orders.
17. The Government considers that existing Alcohol Treatment Requirements are an effective tool for tackling the root causes of alcohol-related offending for individuals who are alcohol dependent and therefore would require clinical treatment, support and guidance to help them tackle their root causes. However, there is another significant offending group who do not fall within this category e.g. offenders who misuse alcohol and commit offences as a result. We therefore need to look at additional means to provide significant deterrents to prevent further such offending.

**Policy objectives:**

18. The Government considers that the Alcohol Abstinence and Monitoring Requirement could support its objectives to:
  - Reduce the level of alcohol related crime;
  - Ensure that offenders face robust and demanding consequences which deter them from committing further alcohol-related crime in the future; and
  - Make the public safer by breaking the cycle of alcohol-related crime

**Option 0 – do-nothing**

19. In 2010, approx 223,200 requirements were commenced under Community Orders and 91,800 under Suspended Sentence Orders. Around 5,900 (3%) Community Order requirements were alcohol treatment requirements while this figure for Suspended Sentence Orders was 2,589 (3%). We assume that without any changes, the volume of alcohol treatment requirements commenced under Community Orders and Suspended Sentence Orders would remain at 2010 levels.

**Figure 2 – volume of requirements commenced under Community Orders by type, 2010, England and Wales**

	Community Orders	Suspended Sentence Orders
	<b>223,227</b>	<b>91,833</b>
Supervision	72,998	32,415
Unpaid Work	73,797	25,163
Accredited Programme	20,444	11,224
Curfew	17,476	8,491
Drug treatment	11,996	4,075
Activity	15,189	4,878
Alcohol treatment	5,949	2,589
Residential	1,062	932
Prohibited Activity	1,491	942
Exclusion	1,135	679
Mental Health	743	262
Attendance Centre	947	183

20. We assume that without any changes, the proportion of crime which is committed by offenders who are under the influence of alcohol would remain static, at 44%. The actual volume of alcohol related crimes would therefore vary according to the variance in overall levels of crime.

21. The do-nothing option is measured against itself, and the costs and benefits are necessarily zero.

**Option 1 – give the courts the power to impose Alcohol Abstinence and Monitoring Requirements on those offenders who have committed offences where alcohol is a contributing factor as part of community orders or suspended sentence orders.**

**Description:**

22. Under this Option, the Government would make an amendment to the LASPO Bill which would give the courts the power to impose a new Alcohol Abstinence and Monitoring Requirement as part of a Community Order or Suspended Sentence Order. The requirement could only be imposed in cases where alcohol has acted as a contributing factor to the offence committed. This requirement, however, will specifically exclude individuals who are considered to be alcohol dependent. As part of this requirement, the Court would order the offender not to drink alcohol for a specified period of time. It would require the offender to submit to testing at times and places and by methods imposed by the Court. The amendment would specify that the requirement would only be available to the Court where a notification from the Secretary of State for Justice that facilities and provision were available was provided in relation to the relevant area. The Government will pilot the compulsory Alcohol Abstinence and Monitoring Requirements in certain geographical areas to evaluate its impact on re-offending; these will take the form of 'proof of concept' pilots to test out the principles and practicalities of delivering this requirement. The amendment would also specify a power for the Secretary of State for Justice to make regulations by statutory instrument about the details of the requirement e.g. monitoring method.

**Costs of Option 1:**

*Probation Trusts/ NOMS:*

23. Local Probation Trusts will monitor offenders subject to the Alcohol Abstinence and Monitoring Requirement as part of Community Orders and Suspended Sentence Orders. Local Probation Trusts will incur costs from monitoring offenders subject to the new requirement. The exact nature of these costs will depend on the method used for monitoring offenders. These details will be outlined in subsequent secondary legislation and are yet to be confirmed.
24. If an offender breaches the Alcohol Abstinence and Monitoring Requirement, NOMS may incur costs from imposing sanctions on these offenders. Due to the nature of the requirement, the breach rate for this requirement may be higher than the breach rate for existing requirements. Breach costs include the costs of longer sentences imposed for breach, additional probation time involved in managing offenders, additional time spent on the scheme and any additional monitoring costs that arise from this. Those offenders subject to Suspended Sentence Orders who breach their requirements would also be liable to serve a custodial sentence, which may increase demand for prison places. NOMS would only incur costs where an offender breaches their requirements, where they previously would not have. It is difficult to estimate how many additional offenders may breach the requirements of their Community Order or Suspended Sentence Order as the details of the requirement will be made in the relevant secondary legislation.
25. The Government's pilot schemes will form limited proof of concept pilots to provide evidence on the principles and practicalities, including cost implications, of this requirement. The scope of the pilot would therefore limit potential cost implications and costs will only be incurred from areas where the Secretary of State for Justice has commenced the provision, so financial implications can be contained to minimise potential impacts. However, additional safeguards will be applied to the pilots to allow for the pilots to be switched off if considerable costs are incurred.

*HMCTS:*

26. Offenders who breach their requirements will have to appear at Court for their breach hearing so that any sanctions for breaching their requirements can be imposed. We consider that the breach rate for this requirement could be higher than average and there could be potentially a high volume of offenders who are brought before the Courts. This could impose a burden on court time; which may not necessarily impose a financial cost but if absorbed within existing budgets other activities may have to be sacrificed or waiting times would increase. These costs would only be incurred by HMCTS in those areas where the Secretary of State for Justice has commenced the provision.

**Benefits of Option 1:**

*Social benefits:*

27. All criminal offences impose costs on society – most notably the physical, financial and emotional impact on victims; fear of crime among members of the public; and costs to the Government in dealing with the consequences of crime.
28. For crimes committed while an offender is under the influence of alcohol, it is not clear whether these offences would have happened or would have reached the same level of seriousness, had the offender not been under the influence of alcohol. While compulsory alcohol requirements may reduce the number of offenders under the influence of alcohol, the extent to which compulsory alcohol requirements reduce crime is not clear.
29. According to the British Crime Survey, offenders were under the influence of alcohol in approx 928,000 crimes in 2010/11. If an Alcohol Abstinence and Monitoring Requirement reduces the number of alcohol related offences then there may be social benefits in terms of lower social costs of crime. The extent to which any re-offending is directly related to these Alcohol Abstinence and Monitoring Requirements will be difficult to measure as many offenders receive more than one requirement. We also cannot know how often the courts may impose this requirement and whether it will be used as a complement to or substitute for existing requirements. If the requirement is used as a substitute for other rehabilitative requirements, then some of the rehabilitative effect of existing requirements on offenders may be lost.
30. As this provision will only be commenced in certain geographic areas at the pilot stage, the Government will keep these areas under review to monitor the effectiveness of this policy in reducing alcohol related re-offending.

*NOMS:*

31. If this policy were to reduce the number of alcohol related offences then this may reduce the demand for prison places over the longer term, if those who do not re-offend would have committed offences which would have attracted a custodial sentence.