

Economic Note	Number: HOEN 0025
Title of regulatory proposal	The Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023
Lead Department/Agency	Home Office
Expected date of implementation	19/06/2023
Origin	Domestic
Date	17/03/2023
Lead Departmental Contact	Name: PolicePowersUnit@homeoffice.gov.uk
Departmental Assessment	GREEN

Rationale for intervention, objectives and intended effects

This statutory instrument aims to further facilitate the use of police powers to place conditions on disruptive protests when necessary to protect the public. The intention is that this measure will improve clarity for the police regarding this power and will deal with legal technicalities, which have prevented this power from being used to protect the public from serious disruption in previous instances.

Policy options (including alternatives to regulation)

Option 1: (Do-nothing) Do not change legislation. This does not meet the Government's objectives.

Option 2: Amend the definition of "serious disruption to the life of the community" for the purpose of sections 12 and 14 of the Public Order Act 1986. **This is the Government's preferred option.**

There are no sufficient non-regulatory alternatives.

Costs and benefit summary

The main costs of this measure are the Criminal Justice System (CJS) costs (such as Magistrate's court time, prison costs and Legal Aid). When compared to Option 1, CJS costs in Option 2 are estimated to be between £2.8 million and £6.8 million with a central estimate of £4.7 million. The benefits of the measure are improved public safety, along with the time saving for police officers. Although the costs of Option 2 exceed the benefits with a negative NPSV, the non-monetised benefits of improved public safety may exceed the costs so there is still some value for money from the implementation of Option 2.

Risks

The analysis has not been able to estimate the exact number of additional criminal outcomes arising from the measure. This is due to an absence of evidence around the number of new conditions that will be imposed by the police following the measures introduction and due to the uncertainty inherent in protestor behaviour.

Total Cost £m PV	Transition Cost £m	Cost to Business £m	Total Benefit £m PV
5.1	0.35	0	0
NPSV (£m)	BNPV (£m)	EANDCB (£m)	BIT Score (£m)
-5.1	0	0	0
Price Base Year	PV Base Year	Appraisal period	Transition period
2023/2024	2023/2024	10 years	1 year

Departmental sign-off (SCS): Mark Williams **Date:** 19/04/2023

Chief Economist sign-off: Jehangir Ullah on behalf of Tim Laken **Date:** 12/04/2023

Better Regulation Unit (BRU) sign-off: Jon Bray **Date:** 25/04/2023

Evidence Base

A. Background

A.1 Protests

1. Since the emergence of groups like Extinction Rebellion in 2018, there has been a marked rise in the number of protest groups who have been intent on causing serious disruption to the public as a campaign strategy. For example, in the month of September 2021, Insulate Britain conducted a series of sitting protests. This involved blocking different road junctions on the same day. This occurred on seven different occasions. Similar demonstrations continued to occur throughout the year of 2021, leading to police forces spending over £4 million¹ managing Insulate Britain protests. Similarly, in November and December 2022, Just Stop Oil engaged in repeated protests across London which involved slow walks or sitting in roads.
2. Sections 12 and 14 of the Public Order Act 1986 give the police power to impose conditions on processions or assemblies if a senior police officer reasonably believes that a public procession or assembly in England and Wales may result in serious disruption to the life of the community. One of the grounds for imposing conditions under these sections is where a senior officer reasonably believes that a procession or assembly may result in “serious disruption to the life of the community”. In some cases, conditions may involve police directions about the route a procession should or should not take. In other cases, conditions may involve prohibiting a protest from gathering in any location specified by the senior officer.
3. The power to impose conditions on disruptive protests is used rarely and in the cases of protests referred to in paragraph 1, the police were not able to intervene by placing conditions on these protests. This is due to the uncertainty of the police as to whether these powers can be legally and justifiably used in those circumstances. As such, these protests caused serious disruption and managing these protests over a long period of time incurred costs for the police and the taxpayer. Accordingly, the power to place conditions on disruptive protests have not been used to sufficiently safeguard the public from serious disruption.
4. The Prime Minister has therefore made a commitment to deal with seriously disruptive protests, which has been supported by certain police stakeholders². An important part of this commitment involves ensuring that the meaning of “serious disruption to the life of the community” reflects the operational reality of recent forms of disruption and protest. The government also wish to improve the clarity regarding what constitutes “serious disruption to the life of the community” to ensure that the police are able to confidently use these powers when necessary.

A.2 Strategic objective

5. The strategic objective is to reduce crime. This statutory instrument helps the Home Office deliver on its Outcome Delivery Plan³ to safeguard people’s freedoms, making sure people feel secure in their homes and communities, and reducing the potential for protest-related offences.
6. This measure builds on the public order measures to support the police in having an effective response to disruptive protest tactics. In recent months, groups such as Extinction Rebellion,

¹ Public Order Bill: factsheet - GOV.UK: <https://www.gov.uk/government/publications/public-order-bill-overarching-documents/public-order-bill-factsheet>

² PM takes action to stop disruptive protests - GOV.UK: <https://www.gov.uk/government/news/pm-takes-action-to-stop-disruptive-protests>

³ Home Office Outcome Delivery Plan: 2021 to 2022 - GOV.UK: <https://www.gov.uk/government/publications/home-office-outcome-delivery-plan/home-office-outcome-delivery-plan-2021-to-2022>

Insulate Britain and Just Stop Oil, have engaged in disruptive and dangerous methods, which have largely impacted the public. The Government had originally sought to bring forward this measure as an amendment to the Public Order Bill⁴, but this was rejected by the House of Lords due to concerns that that this measure introduced at a late stage of the Bill and that the police already have necessary powers.

7. The Government intend for this measure to increase the efficiency of police responses to disruptive protests, thereby keeping the public safe from undue levels of serious disruption, which can be prevented by an efficient police response.

A.3 Consultation

8. The main stakeholders in policing that were consulted regarding this measure were representatives and/or officials from:
 - National Police Chiefs' Council (NPCC).
 - The Metropolitan Police Service (MPS).
 - Crown Prosecution Service (CPS).
9. No public consultation by the Government has been held for this statutory instrument, however a similar provision was debated during the House of Lords Report Stage of the Public Order Act 2023.

A.4 Groups Affected

- British Transport Police (BTP).
- Community and social organisations.
- Criminal justice organisations.
- Criminal Justice System (CJS).
- Crown Prosecution Service (CPS).
- General public.
- His Majesty's Courts and Tribunals Service (HMCTS).
- His Majesty's Government, government departments and agencies.
- Legal Aid Agency.
- Home Office.
- Independent Office for Police Conduct (IOPC).
- Judiciary.
- Ministry of Defence Police (MDP).
- Ministry of Justice (MoJ).
- National Probation Service (NPS).
- Police forces in England and Wales.
- Probation Service.
- Protestors.
- Road and other transport users.
- Sentencing Council.
- Transport operators and construction companies.
- Witnesses of disruptive protests.

⁴ Public Order Bill - Parliamentary Bills - UK Parliament: <https://bills.parliament.uk/bills/3153>

B. The policy issue and rationale for government intervention

B.1 Police Power to place conditions on disruptive protests

10. In March 2021, His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) released a report on how effectively the police deal with protests⁵. The report included several recommendations and highlighted the need for improvement in the police's use of powers to deal with disruptive protests. More action has been taken to enhance police capabilities and tactics; however the report also highlighted the lack of adequate powers available when responding to seriously disruptive protests. This measure can only be taken through government intervention and legislation and the HMICFRS report made specific recommendations to amend sections 12 and 14 of the Public Order Act 1986⁶.
11. Currently, sections 12 and 14 of the Public Order Act 1986⁷ grant the police powers to place reasonable and necessary conditions on public processions and assemblies to prevent specific harms, which includes "serious disruption to the life of the community", from occurring. It is a criminal offence to breach these conditions or incite others to breach them.
12. The current definition of "serious disruption to the life of the community" does not provide the police with enough clarity to make full use of their powers. There are circumstances where serious disruption is caused to communities, but the police do not have sufficient clarity in law to be certain they are using their powers lawfully. In particular, this uncertainty relates to: the cumulative disruption caused by concurrent and repeated gatherings; the relative disruption caused by gatherings against disruption typical of the area; the lack of definition for 'community'; a limited list of what constitutes 'serious disruption'; and too high a threshold for the existing examples.
13. This statutory instrument will amend the definition of "serious disruption to the life of the community" for the purposes of section 12 and 14 of the Public Order Act 1986, to address each of the issues referred to above. This will provide the police with the clarity needed when deciding whether to use this power.

C. Policy objectives and intended effects

14. The policy objectives are to give the police clarity in law, to facilitate the use of their powers to place conditions on protests when necessary to protect the public during disruptive processions or assemblies. This will ensure that the police are able to confidently place conditions on protests which cause serious disruption to the life of the community.
15. It is expected that this measure will reduce the level of serious disruption faced by the public by preventing "serious disruption to the life of the community" more effectively. The Government has taken this measure to help towards fulfilling their commitment to deal with "seriously disruptive" protests. In several cases, certain processions or assemblies have been able to cause disruption for long periods of time without having conditions placed on them. This policy change will reduce the opportunity for protestors to cause disruption for long

⁵ Getting the balance right? An inspection of how effectively the police deal with protests (justiceinspectorates.gov.uk) – His Majesty's Inspectorate of Constabulary, Fire and Rescue Services: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/getting-the-balance-right-an-inspection-of-how-effectively-the-police-deal-with-protests.pdf>

⁶ Getting the balance right? An inspection of how effectively the police deal with protests (justiceinspectorates.gov.uk) – His Majesty's Inspectorate of Constabulary, Fire and Rescue Services: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/getting-the-balance-right-an-inspection-of-how-effectively-the-police-deal-with-protests.pdf>

⁷ Public Order Act 1986 (legislation.gov.uk): <https://www.legislation.gov.uk/ukpga/1986/64/contents>

periods or through cumulative persistent action. As such, the measure seeks to have the additional impact of saving police time and taxpayer money, which has often been spent managing disruptive protests.

16. The Government has taken this measure following on from a commitment to deal with seriously disruptive protests. In several cases, certain processions or assemblies have been able to cause disruption for long periods of time without having conditions placed on them (please see paragraph 3). The changes to the definition of “serious disruption to the life of the community” will help to ensure that the police are able to place conditions on protests which cause disruption, but which previously have not been understood as meeting the requirements for police conditions. This policy change will reduce the opportunity for disruptive protestors to cause disruption for long periods or on cumulative scales without conditions.

D. Policy options considered, non-regulatory options, implementation date

17. Two options have been considered:
 - a) **Option 1: Do nothing.** This would continue to leave the police without adequate powers to effectively manage disruptive protests. Any future failings in the policing response could be attributed to the Government for ignoring requests from the police for legislation that is fit for purpose. While there are no costs or benefits associated with this option, it does not meet the Government’s objectives
 - b) **Option 2.** Amend the definition of “serious disruption to the life of the community” for the purposes of sections 12 and 14 of the Public Order Act 1986. **This is the Government’s preferred option.**
18. The amendments to sections 12 and 14 of the Public Order Act 1986 would be made by way of a statutory instrument. This is because Sections 73 and 74 of the Police, Crime, Sentencing and Courts Act 2022 amended sections 12 and 14 of the Public Order Act 1986 to provide the Secretary of State (Home Secretary) with a power to amend by regulations Sections 12(2A) to (2C) and 14(2A) to (2C) of that Act. The power allows the Home Secretary to make provision about the meaning of “serious disruption to the life of the community”. Option 2 involves making provision about the definition of “serious disruption to the life of the community” in the following ways:
 - (a) **Amending the definition to allow the police to consider the cumulative impact of processions or assemblies when determining whether a protest is causing or may cause “serious disruption to the life of the community”.** Currently, the definition does not contain provisions to explicitly allow the police to consider the cumulative impact of protests. As such, protests have been able to cause serious disruption to the life of the community without meeting the threshold of having conditions placed upon them. For example, in the months of November and December 2022, Just Stop Oil engaged in repeated protests across London where their members deliberately walked slowly or sat down in the roads. Cumulatively, these protests caused serious disruption, however the police considered each protest in isolation, which prevented them from placing conditions on the Just Stop Oil slow walks. This measure will allow the police to consider the cumulative impact of such protests and impose conditions to safeguard the public.
 - (b) **Amending the definition to allow the police to consider the absolute disruption caused by a protest when determining whether a protest has caused “serious disruption to the life of the community”.** What is regarded as “serious disruption to

the life of the community” is often considered with reference to what is considered normal for a given area, rather than the nature of disruption caused. For example, if a protest caused a traffic jam in a location where traffic jams are not uncommon, it has not always been deemed to be “serious disruption to the life of the community”. This leads to inconsistency in the legal standard of what constitutes “serious disruption to the life of the community” and may give rise to issues of legal complexity and inconsistency in the use of these police powers. This measure will make it clear that “serious disruption to the life of the community” relates to the absolute and not the relative disruption caused by gatherings. This means that, when assessing whether “serious disruption to the life of the community” is caused, the police must not compare the disruption caused by the gathering to what is typical for the area where the gathering is held. For example, serious disruption is caused to the life of a community even if a gathering causes a traffic jam in an area where traffic jams are common. Therefore, this measure (b) will prevent protestors from using the fact that disruption is relatively common for an area as an excuse for causing serious disruption.

- (c) **Defining the meaning of “community” to mean any group of persons affected by the gathering and not just those who live or work in the vicinity of that gathering.** This will make it clear that the term community can be taken to refer to members of the public who may be affected by a protest, rather than a limited group. This will add further clarity for the police, courts and the public when considering how the definition of “serious disruption to the life of the community” should be applied.
- (d) **Amending the list of examples of what may constitute “serious disruption to the life of the community” to include by way of physical obstruction the prevention of, or a hinderance that is more than minor to, the carrying out of day-to-day activities (including in particular the making of a journey).** Protests have often involved hindering others making a journey, however the police have not known whether they can lawfully impose conditions on protests in these cases. For example, in September 2021, Insulate Britain conducted a series of sitting protests, blocking roads at different road junctions on the same day. This occurred on seven different occasions. Similar demonstrations continued to occur throughout the year of 2021, and police forces spent over £4 million managing Insulate Britain protests. This measure will make it clear that conditions can be imposed on such protests.
- (e) **Changing the threshold of what constitutes “serious disruption to the life of the community” in the list of examples from “significant delay” and “prolonged disruption” to “a delay that is more than minor” and “a disruption that is more than minor”.** The police have asked for clarity regarding the meaning of serious disruption in law. At times, the police have been uncertain about whether a protest has met the threshold of “serious disruption to the life of the community”. “More than minor” represents a threshold which is sufficiently clear for the police when determining whether to impose conditions. The wording “more than minor” was proposed by the former Deputy President of the Supreme Court and is based on recent case law. This will add clarity and assist the police in taking more swift and confident action where necessary.

Non-regulatory options

19. As these changes require legislation to be passed by parliament, there are no non-regulatory alternatives which would achieve the same objectives. Updating Police guidance was considered but rejected as an option due to the fact it would not achieve the government’s objectives. This is because police guidance is limited to explaining how to apply legislation, it cannot be used to change the scope of what is lawful. For example, police guidance cannot be used to allow the police to consider cumulative disruption, because there are currently no legal grounds for this to be considered.

E. Appraisal

General assumptions and data

20. This Economic Note identifies both the monetised and non-monetised impacts of implementing the measure on individuals, groups and businesses in England and Wales, with the aim of understanding what the overall impact on society could be as a result of implementing Option 2. All costs and benefits are calculated against Option 1 (Do nothing) where the proposed measure is not introduced, and the police powers are not clarified or defined. Due to the inherent uncertainty in protestor behaviour and in how the police will respond to the clarification, the costs and benefits in this Economic Note are largely estimated using scenario analysis and break-even analysis.
21. Where relevant these costs have still been appraised over ten years. All monetised costs have been estimated in 2023/2024 prices. Where these estimated costs were based on different price years, these have been adjusted according to the latest GDP deflator⁸. Present value costs have been estimated over a 10-year appraisal period from 2023/2024 to 2032/2033 with an implementation period ranging from 2023/2024 to 2032/2033, discounted by the social rate of discount, 3.5 per cent per year⁹.
22. The monetised estimates largely take the form of sensitivity analysis or break-even analysis, depending on several modelling assumptions and cannot be regarded as firm predictions. Despite these caveats within the analysis, due to the inherently uncertain nature of the measures, the data and assumptions included in the analysis are considered the best proxy.
23. The main cost impact of introducing this measure depends on the volume of additional cases that will go through the criminal justice system as a result of the new measures, and how this relates to CJS time and costs. As there is little evidence around how often officers will use the new powers clarified in Option 2, the CJS costs are based on scenario analysis. Here, different levels of increased police use of the power and the subsequent increase of associated CJS volumes, is tested and compared to the current use in Option 1. The impact of these scenarios on the CJS is then presented in the form of a range.
24. The analysis is based on the general assumption that police officers will use the clarification of powers to impose more conditions on disruptive protests, that they will be efficient in doing so. The analysis is also based on the assumption that this increase in imposed conditions will result in breaches from protesters, leading to CJS outcomes. This means the cost analysis is largely dependent on protestor behaviour and protestor reaction to the measure, which is uncertain. The risks associated with this assumption are further explained in Section F.
25. To calculate the number of convictions that will arise from this range of volumes, the CJS costs have been calculated based on 2019 prosecution data for similar protests, with assumptions made on the proportion of these that will be tried in a magistrate's court, and those that will require legal aid. Although there is a low risk that the current data is not representative, a low central and high estimate has been calculated to reflect the uncertainty in the assumptions where possible, and it is concluded that in the absence of specific data, the best proxies have been used.

⁸ GDP deflators at market prices, and money GDP June 2022 (Quarterly National Accounts: <https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-september-2020-quarterly-national-accounts>)

⁹ The Green Book (2022) - GOV.UK ([www.gov.uk](https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020)): <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020>

26. Familiarisation costs have also been calculated based on assumptions around the number of staff required to familiarise themselves and the amount to familiarise, along with internal and published data sources on reading speed and staff pay.
27. It has not been possible to place a monetary value on the benefits of this measure, although there will be benefits in relation to public safety. It is assumed that this is the best available analysis, and the associated assumptions made within the analysis are reasonable and the best proxies available.
28. This level of analysis is appropriate, considering data limitations. The most reasonable assumptions have been considered and data from the best evidence available has been used to form the calculations. Although many of the data sources are proxies, they are considered appropriate, as they are taken from offences that are the most similar in nature to those considered under Option 2.

Costs

CJS Costs

29. The main costs of implementing this measure are those faced by the CJS. The costs of implementing Option 2 need to be compared to Option 1, the baseline 'do-nothing' scenario. In the baseline scenario, officers still imposed conditions on public assemblies and processions, but without the improved clarity and efficiency achieved from implementing Option 2.
30. To isolate the impact from Option 2, the additional number of conditions that will be imposed from the implementation of Option 2 need to be identified. In a Government press release, Chief Constable Harrington quoted¹⁰ that there were no more than 20 conditions applied by the police in the last year. This captures the baseline scenario. To assess the impact of Option 2, this Economic Note tests the impact of the number of annual imposed conditions increasing from 20. In the absence of specific data on the actual increase in conditions that will be seen, scenario testing tests the impact of the imposed conditions increasing to 27. A high and low impact has also been tested, where annual conditions increase to 30 and 24 respectively.
31. To monetise the CJS cost of the increase in these conditions, the number of related prosecutions needs to be estimated. In 2019¹¹, 907 people were prosecuted for failing to comply with conditions, 710 of which were convicted, and 1 of which was given a custodial sentence. Based on the Chief Constable Harrington's estimate that no more than 20 conditions are applied each year, the number of prosecutions seen per condition would be 45. These 45 prosecutions are then applied to the tested increase to 24-30 conditions in Option 2.
32. The number of people receiving custodial sentences is expected to be negligible but based on the available evidence it is not expected to be zero.
33. To monetise the full CJS costs of these prosecutions, assumptions are applied around the conviction rate, sentence length and magistrate court time. These assumptions and their source can be seen below in Table 1. Given the level of uncertainty, these are considered to be reasonable assumptions.
34. To be able to isolate just the CJS costs associated with Option 2, these same assumptions are applied for the baseline scenario of Option 1 and the difference is subtracted. Option 1 estimates the number of convictions based on an assumption of 20 imposed conditions and uses the 907 prosecutions as was seen in 2019. The full cost calculation for Option 1 and Option 2 can be seen in their sections below.

¹⁰ <https://www.gov.uk/government/news/pm-takes-action-to-stop-disruptive-protests>

¹¹ <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/getting-the-balance-right-an-inspection-of-how-effectively-the-police-deal-with-protests.pdf>

Table 1, CJS cost assumptions

Assumption area	Assumption	Explanation
Conviction rate	78%	Based on 2019 data
Proportion receiving custody	0.1%	Based on MoJ outcomes by offence tool for similar offences, assume 55% of convictions result in custody
Proportion receiving immediate custody	70%	Based on MoJ outcomes by offence tool for similar offences, assume 70% of custody is immediate
Proportion receiving suspended custody	30%	Based on MoJ outcomes by offence tool for similar offences, assume 30% of custody is suspended
Custody sentence length	0.25 years	Assume average length of 3 months
Sentence served	50%	Assume half of sentence served
Proportion of cases in Magistrates Court	100%	100% cases tried in Magistrates court
Proportion of cases in Crown Court	0%	0% cases tried in Crown court
Days sat in Magistrates Court	1 day	Assume 1 court sitting day
Days sat in Crown Court	1 day	Assume 1 court sitting day
Legal aid in Magistrates Court	50%	Assume 50% magistrates court require legal aid
Legal aid in Crown Court	50%	Assume 50% crown court require legal aid

Source: Home Office 2023

Option 1 – Baseline ‘Do nothing’

35. The monetised costs of Option 1 are those costs faced by the CJS as a result of individuals breaching the current level of conditions, a criminal offence.
36. These CJS costs have been calculated by estimating the number of existing cases that will sit in the magistrates’ court as a result of this measure, and the additional legal aid and prison costs associated with these cases.

Magistrates’ court costs

37. Internal Home Office Report Data from 2019 (see Table 2) shows that in the year 2019 907 people were prosecuted for failing to comply with conditions imposed on public assembly and public processions.
38. This means there are 907 cases to be heard in the magistrates’ court for one day. When applying to the cost of a day in magistrates’ court, estimated by MoJ¹² to be £1,473 (in 2023/2024 prices), the total magistrates’ court costs are **£1.3 million** per year. The total magistrates’ court costs are **£11.5 million (PV)** over 10 years.

Table 2, CJS outcomes relating to breaches of conditions in 2019.

CJS Outcomes	Volume
Prosecutions	907
Convictions	710
Custodial Sentences	1

Source: Home Office 2023.

¹² Offensive Weapons Bill Impact Assessment (page 30): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717684/Impact_Assessment.pdf

Legal aid costs

39. In the absence of specific data, it is assumed that 50 per cent of the cases that are tried in a magistrates' court will be eligible for legal aid. This is estimated to be 453 cases. The daily legal aid cost per public order offence in the magistrates' court is £537¹³ (2023/2024 prices). When this is applied to the estimate of cases that will be eligible, the legal aid costs for this measure are estimated to be **£0.2 million** per year. Legal aid costs for this measure in the baseline scenario are estimated to be **£2.1 million (PV)** over 10 years.

Prison costs

40. According to the HMICFRS 2019 data¹⁴, 710 people, or 78 per cent of prosecutions for the breaching of conditions, resulted in convictions.
41. Of this, the data showed that one person, or 0.1 per cent receive custody. Therefore, it is estimated that 0.1 per cent of cases are reoffenders and receive custodial sentences
42. An assumption is then made around the proportion of custody that is immediate or suspended. It is assumed that typically 70 per cent of reoffenders will receive a custodial sentence of immediate custody and 30 per cent a suspended sentence. This is based on data on the number of Insulate Britain members prosecuted. Data from Insulate Britain in 2021 showed that around 70 per cent of 36 Insulate Britain protesters were sentenced to immediate custody¹⁵. Although this data is taken from a different protest to those covered in the 2019 data above, the assumptions can still be applied. It is expected that approximately half the sentence length will be served, with an average sentence length of three months per conviction.
43. When this data on the conviction rate is considered, along with the assumption that 50 per cent of the typical three-month sentence will actually be served, it is calculated that the number of full custody years for that individual will be 0.09.
44. When this estimate is applied to the annual cost of prison place at £50,547 (2023/2024 prices) the total prison cost are¹⁶ **£4,423** per year. The total prison costs are estimated to be **£0.04 million (PV)** over 10 years.
45. Of those who did not receive custody (709 people), 657 people received fines and 25 people received a community sentence. The remaining people were otherwise dealt with or discharged. The cost and benefits of the fines and community sentence are mostly transfer costs (where resources, such as fines, are transferred from one person to another) which are not monetised. These outcomes might incur small administrative and staff costs, but this is expected to be minimal and has not been monetised.
46. When the prison costs are summed with the court and legal aid costs, the total cost is estimated to be **£1.6 million** per year. If Option 1 was implemented and the baseline scenario continued for ten years, the total cost are estimated to **£13.6 million (PV)** over 10 years.

Option 2 – Implement the measure

47. The monetised costs of implementing Option 2 are the CJS costs that are faced in Option 1 (above), as well as the additional CJS costs as a result of clarifying the definition of serious disruption. Option 2 and its costs are compared to the baseline in Option 1, so only the additional costs specific to Option 2 are detailed below.

¹³ <https://www.gov.uk/government/statistics/legal-aid-statistics-july-to-september-2021>

¹⁴ <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/getting-the-balance-right-an-inspection-of-how-effectively-the-police-deal-with-protests.pdf>

¹⁵ Internal Home Office Report

¹⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929417/costs-prison-place-costs-prisoner-2019-2020-summary.pdf

48. These CJS costs have been calculated by estimating the number of new cases that will sit in the magistrates' court as a result of this clarification, and the additional legal aid and prison costs associated with these cases.
49. For the implementation of Option 2 it has been assumed that the measure will come into effect halfway through 2023/2024. Therefore, 50 per cent of the additional costs are applied in 2023/2024, with 100 per cent applied from 2024/2025.

Magistrates' court costs

50. Internal Home Office Report Data from 2019 (see Table 2) shows that in the year 2019 there were 907 people prosecuted for failing to comply with conditions imposed on public assembly and public processions. This data reflects the current baseline scenario. As there is currently no evidence on how this number might change from the implementation of Option 2, several scenarios have been tested, based on different assumptions about the increase in conditions applied by the police.
51. Given the absence of specific data, reasonable assumptions have been made to form these scenarios. It has been assumed that the police will impose between 20 per cent and 50 per cent more conditions, as a result of Option 2, with a central estimate of a 35 per cent increase. This results in between 24 and 30 conditions, with a central estimate of 27 conditions. Considering that the existing number of conditions is 20, this means between 4 and 10 extra conditions as a result of this measure, with a central estimate of 7 new conditions.
52. Based on the 2019 HMICFRS data (which saw 907 prosecutions across an estimated 20 conditions), each condition results in an average of 43 prosecutions. Based on this, the total number of prosecutions to be tried in magistrates' courts is estimated to lie in a range of 1088 and 1361, with a central estimate of 1224 per year.
53. As there are estimated to be a baseline number of prosecutions in Option 1 of 907, the number of additional cases to be heard in the magistrates' court for one day lie in the range of 181 and 454, with a central estimate of 317 additional cases. When applying to the cost of a day in magistrates' court, estimated by MoJ¹⁷ to be £1,473 (in 2023/2024 prices), the additional magistrates' court cost lies in the range of **£0.27 and £0.67 million**, with a central estimate of **£0.47 million** per year. The total magistrates' court cost lies in the range of **£2.2 and £5.4 million (PV)**, with a central estimate of **£3.8 million (PV)** over 10 years.

Legal aid costs

54. In the absence of specific data, it is assumed that 50 per cent of the new cases that are tried in a magistrates' court will be eligible for legal aid. This is estimated to lie in a range of 91 and 227 cases, with a central estimate of 159 cases. The daily legal aid cost per public order offence in the magistrates' court is £537¹⁸. When this is applied to the estimate of cases that will be eligible, the additional legal aid costs for Option 2 lie in a range of **£0.05 to £0.12 million**, with a central estimate of **£0.09 million** per year. Legal aid costs for this measure lies in a range of **£0.4 to £1.0 million (PV)**, with a central estimate of **£0.7 million (PV)** over 10 years.

Prison costs

55. According to the 2019 data, 710 people, or 78 per cent of prosecutions for the breaching of conditions resulted in convictions.
56. Of this, the data showed that 710 people, or 0.1 per cent receive custody. Therefore, it is estimated that 0.1 per cent of cases receive custodial sentences.

¹⁷ Offensive Weapons Bill Impact Assessment (page 30):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717684/Impact_Assessment.pdf

¹⁸ <https://www.gov.uk/government/statistics/legal-aid-statistics-july-to-september-2021>

57. An assumption is then made that 70 per cent of reoffenders will receive custodial sentence of immediate custody and 30 per cent a suspended sentence. This assumption is based on data on the number of Insulate Britain members prosecuted. This data from Insulate Britain showed that around 70 per cent of the 36 Insulate Britain protesters were sentenced to immediate custody¹⁹. It is expected that approximately half the sentence length will be served, with an average sentence length of three months per conviction.
58. When this data on the conviction rate is considered along with the assumption that 50 per cent of the typical three-month sentence will actually be served, it is calculated that the number of full custody years will range between 0.02 and 0.04, with a central estimate of 0.03 additional custody years.
59. When this estimate is applied to the annual cost of prison place at £50,546²⁰, the total additional prison costs are estimated to be between **£885** and **£2,211** per year, with a central estimate of **£1,548**. The total prison costs are estimated to be between **£0.007 million (PV)** and **£0.018 million (PV)** over 10 years with a central estimate of **£0.013 million (PV)**
60. Of those who did not receive custody (709 people), 657 people received fines and 25 people received a community sentence. The remaining people were otherwise dealt with or discharged. The cost and benefits of the fines and community sentence are mostly transfer costs (where resources, such as fines, are transferred from one person to another) which are not monetised. These outcomes might incur small admin and staff costs but this is expected to be minimal and has not been monetised.
61. When the prison costs are summed with the court and legal aid costs, the total additional cost of Option 2 is estimated to be between **£0.3 million** and **£0.8 million** per year with a central estimate of **£0.6 million** per year. The total costs are estimated to be between **£2.7 million (PV)** and **£6.8 million (PV)** over 10 years, with a central estimate of **£4.8 million (PV)** over 10 years.

Familiarisation costs – Monetised

62. There are expected to be familiarisation costs associated with police officers and criminal defence solicitors familiarising themselves with the measure. This is likely to be in the form of a note or email notifying the reader of the updated measures and changes.
63. Familiarisation costs were calculated by multiplying the average number of staff with the average hourly wage and the number of minutes needed for familiarisation. The number of minutes needed for familiarisation is calculated by applying an average word per minute reading speed to the estimated number of words that will be required to be read.
64. In the absence of more specific data, it is assumed that between 50 and 100 per cent of Constables, Sergeants, Inspector, Chief Inspector and Superintendents (including Chiefs) will be required to familiarise themselves, with a central estimate of 75 per cent. Senior officers are included in these familiarisation costs as senior officers will be the officers with the power to impose the conditions. Constables and Sergeants will also need to be aware to forward information about protests and potential conditions to the senior officers. By summing the assumed proportion of these ranks that are required to familiarise, the total number of officers needing to familiarise lies in the range of 69,993 to 139,986²¹, with a central estimate of 104,989. The central cost estimate for each officer rank is calculated by multiplying the central number of that rank required to familiarise themselves with the average hourly wage for that

¹⁹ Internal Home Office Report

²⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929417/costs-prison-place-costs-prisoner-2019-2020-summary.pdf

²¹ Police workforce, England and Wales: 31 March 2022 second edition - GOV.UK (www.gov.uk) – <https://www.gov.uk/government/statistics/police-workforce-england-and-wales-30-september-2022/police-workforce-england-and-wales-30-september-2022>

rank in 2023/2024 prices (using internal Home Office data) and the central estimate of number of hours needed for familiarisation (0.08)²².

65. Average hourly wage has been weighted for pay point and an average has been taken to account for National, London, Area 1 and Area 2 pay scales. Area 1 and Area 2 covers forces in the South East of England (outside of London) that receive a location allowance. This average includes a slight weighting for London salaries, as it is assumed that London police officers will experience these types of protests more, and therefore be required to be more familiar with this measure. In the absence of specific data, it is assumed that London Police Officers are twice as likely to use the powers clarified by Option 2. Therefore, 50 per cent of the average is weighted towards London salaries, with the remaining 50 per cent split equally between National, Area 1 and Area 2. Table 3 shows the different salaries for different officer ranks across those locations, and summarises the weighting that has been applied. The officer FTE costs include overhead costs such as pension and National Insurance contributions.

Table 3, Hourly officer FTE costs and weighting £ (2023/2024 prices)

Rank	London	Area 1	Area 2	National
Superintendent (includes chiefs)	79	76	75	74
Chief Inspector	63	60	59	58
Inspector	59	56	55	54
Sergeant	50	47	46	45
Constable	41	37	36	35
Weighting	50%	17%	17%	17%

Source: Home Office 2023

66. It is assumed that a small number of criminal defence solicitors will need to familiarise themselves of the new policy implementation. According to the Financial Times²³, there are 11,760 criminal defence lawyers working in the UK. It is assumed that between 10 and 25 per cent of criminal defence solicitors will be required to familiarise themselves, with a central estimate of 17.5 per cent. This gives a total number of criminal defence solicitors to lie in the range of 1,176 and 2,940 with a central estimate of 2,058. The central familiarisation costs for criminal defence solicitors were calculated by multiplying the number of criminal defence solicitors estimated to need to familiarise (2,058) with the average hourly wage for criminal defence solicitors in 2023/2024 prices (£40)²⁴ and the number of hours needed for familiarisation (0.08)²⁵. This solicitor FTE costs includes an additional 15 per cent for the on-cost staff cost associated with legal staff, such as pensions and national insurance contribution. This percentage has been taken from the Index of Labour Costs per Hour (ONS), taking an average from all sectors²⁶.
67. As can be seen in Table 4, the number of words to be read and the reading speed has been estimated to be in a range of between 1,000 and 2,000 words, and 240 and 700²⁷ words per minute, with a central estimate of 1,500 words and 400 words per minute. When this range is considered, along with a high to low range of staff required to familiarise, the total time spent

²² Speed Reading Test Online: <http://www.readingsoft.com>

²³ 'A demographic time-bomb': criminal defence solicitors warn sector is dying out | Financial Times (ft.com) – <https://www.ft.com/content/40658f6b-efaa-411d-89e2-b9376ad5391e>

²⁴ Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Office for National Statistics (ons.gov.uk) https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digit_soc2010ashtable14

²⁵ Speed Reading Test Online. <http://www.readingsoft.com/>

²⁶ Index of Labour Costs per Hour, seasonally adjusted - Office for National Statistics (ons.gov.uk): <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/indexoflabourcostperhourilchseasonallyadjusted>

²⁷ Speed Reading Test Online. <http://www.readingsoft.com/>

familiarising is estimated to be between 0.02 and 0.22 hours, with a central estimate of 0.08 hours.

68. When this time is considered along with the staff salaries, the familiarisation costs are estimated to lie in a range of **£0.06 million to £1.30 million**, with a central estimate of **£0.35 million** (2023/2024 prices) in year 1 only. This can be seen in Table 5. The familiarisation costs are only applied in the first year of appraisal to account for the initial adjustment for officers and solicitors will be required to make. It is assumed that this will be included as part of regular training for future new recruits, so it is not included for every year.

Table 4, Familiarisation reading speeds, (volume, wpm, minutes, hours) 2022.

Scenario	Number Words	Speed (wpm)	Time (mins)	Comp	Re-read time (mins)	Allowance (mins)	Total time (mins)	Total time (hours)
High	2,000	240	8.3	0.6	3.33	1.00	13.00	0.22
Central	1,500	400	3.8	0.8	0.75	0.50	5.00	0.08
Low	1,000	700	1.4	0.85	0.00	0.00	1.00	0.02

Source: Data on number of words required to be read, [readingsoft.com](http://www.readingsoft.com)²⁸

Note: Comp. = comprehension and wpm = words per minute.

Table 5, Total familiarisation costs, £ (2023/2024 prices) in year 1 only, 2022.

Staff	Low	Central	High
Superintendent (includes Chiefs)	£ 1,040	£ 6,241	£ 22,884
Chief Inspector	£ 1,226	£ 7,359	£ 26,983
Inspector	£ 3,569	£ 21,411	£ 78,508
Sergeant	£ 9,749	£ 58,491	£ 214,468
Constable	£ 42,303	£ 253,815	£ 930,656
Criminal defence solicitor	£ 938	£ 6,567	£ 25,798
Total	£ 58,824	£ 353,885	£ 1,299,297

Source: Home Office own estimates, 2023.

Time Costs – Non-monetised

69. There is a possibility that introducing this measure will reduce the time that officers have to perform their existing duties, resulting in an opportunity cost equal to the value of the time spent on their other duties. This cost is expected to be minimal.

Total Costs

70. The total costs of **Option 2** are summarised in Table 6. These consist of familiarisation cost in the first year of appraisal and CJS costs over the remaining years (with 50 per cent applied in the first year to account for the time taken for the measure to be implemented). These costs are estimated over a 10-year appraisal period and presented in £ million (PV) 2023/2024 prices.
71. The total cost Option 2 lies in range between **£2.8 and £8.1 million (PV)**, with a central estimate of **£5.1 million (PV)** over 10 years.

²⁸ Speed Reading Test Online. <http://www.readingsoft.com/>

Table 6, Cost summary, £ million (PV) over 10 years.

	Low	Central	High
Set-up costs			
Familiarisation costs (year 1 only)	0.06	0.35	1.30
Ongoing costs			
Total CJS Costs	16.3	18.4	20.4
Net CJS Costs (Option 2 costs relative to Option 1)	2.7	4.8	6.8
Total cost	2.8	5.1	8.1

Benefits (Non-monetised)

72. The benefits from this measure are non-monetised and focus primarily on the resulting improvements to public safety and the time efficiency benefit.

Improved Public Safety

73. This measure will clarify the powers available to police officers for responding to harmful protests, improving community safety and wellbeing in the process. The measure will allow officers to place conditions on disruptive protests. This could reduce the cost faced by officers of managing such protests, which cost the police approximately £4 million in 2021²⁹ and £37 million in three months of 2019³⁰.
74. As this measure makes it easier for officers to place conditions on protests, in addition to increasing convictions, the measure is expected to result in a level of deterrence for individuals planning disruptive protests. Fewer people are likely to engage with the risk of committing an offence of breaching conditions. We can assume that, if conditions are placed on a disruptive protest, fewer people will engage in the restricted act specified or, if the conditions restrict the entire protest, fewer people will turn up in spite of these conditions. This will avoid future serious disruption to individuals or organisations, resulting in a benefit for the public and wider economy of improved public safety.
75. The introduction of the measure will also help prevent disruption for businesses that may have been targeted or affected. It would typically be retail businesses that were affected by disruptive processes as their staff cannot work from home. Hourly FTE from the ONS³¹ (not including staff overheads), shows that the average FTE cost for staff working in the category of retail and customer service is £11.80. If protest-related disruption for five members of these staff was avoided for eight hours (a typical working day) over four occasions (the central estimate of additional conditions in Option 2), there could be monetary savings of around £1,889.
76. It is not possible to place a monetary value on the level of improved public safety. Analysis from the Department for Transport suggests that on average travellers would be willing to pay £13.74³² to save one hour of travel time (based on an average of modes, distances and reason

²⁹ Public Order Bill: factsheet - GOV.UK: <https://www.gov.uk/government/publications/public-order-bill-overarching-documents/public-order-bill-factsheet>

³⁰ Public Order Bill: factsheet - GOV.UK: <https://www.gov.uk/government/publications/public-order-bill-overarching-documents/public-order-bill-factsheet>

³¹ Annual Survey of Hours and Earnings (ASHE) - Guide to tables - Office for National Statistics (ons.gov.uk): <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/annualsurveyofhoursandearningsasheguidetotables>

³² Values of travel time savings and reliability: final reports - GOV.UK (www.gov.uk) <https://www.gov.uk/government/publications/values-of-travel-time-savings-and-reliability-final-reports>

for travel). Considering that unit cost and that a protest may last upwards of eight hours at a time, and prevent at least five people from travelling, the benefit of avoiding that transport disruption, could be upwards of £500 for travellers.

77. The implementation of the measure will also enable officers to efficiently respond to protests that include wilful obstruction of the highway, locking-on³³, obstruction of major transport works and interfering with key national infrastructure, further contributing to the improvement of public safety, assisting their ability to prevent such offences.

Time Efficiency

78. The impact of the measure clarifying the meaning of 'serious disruption to the life of the community' will result in a time-saving efficiency of officer time. It is arguably less resource intensive for the police to check if people are breaching conditions, than managing a disruptive protest, which may go on for several days and contain more incidents. If conditions are placed, the police will have the ability to arrest those who breach the conditions rather than having to stay there the entire duration of a protest. This means there will be a time saving benefit, and the officers will have more time to spend on other policing activities, resulting in a wider public benefit. Due to uncertainty around estimating the actual volume of time saved, this efficiency benefit remains non-monetised.
79. Considering that the average hourly Constable FTE cost of is £38 (weighted 50 per cent for London salary and the remaining 50 per cent split between National, Area 1 and Area 2), 5 constables saving 1 hour of time over the central estimate of 24 conditions per year would result in £4,612.80 per year. This time saving benefit could be applied to all 24 estimated conditions, not just the additional 4 conditions seen in Option 2. This is because there is no time saving in Option 1.

Value for money metrics

80. The NPSV from **Option 2** lies in a range of **-£2.8 to -£8.1 million** (PV), with a central estimate of **-£5.1 million** (PV) over 10 years. As the benefits have not been monetised, the NPSV is negative and does not accurately reflect all the benefits of the policy.
81. There are no direct costs or benefits to business therefore, the Business Net Present Value (BNPV) and the Equivalent Annual Net Direct Cost to Business (EANDCB)³⁴ are both **zero**.
82. The measures in **Option 2** are expected achieve value for money in the absence of monetised benefits, as they are likely to meet the policy objectives of reducing and deterring future disruption and improving public safety. This value for money is achievable as the measure is straightforward to implement (clarifying an existing procedure) and the additional enforcement and improvement required from officers will take place as part of their existing duties.
83. By expanding police powers to cover the measure, the police will be able to efficiently target protests that result in public disruption. It is likely that the only costs associated with achieving these benefits are those faced by the CJS and one-off technological set-up costs. The number of cases and the subsequent CJS costs will be easy to measure and track in collaboration with MoJ, and it will also be possible to see the impact of the new police powers on protestor behaviour and public safety through the protests that occur following the implementation of the measures in Option 2. Therefore, the value for money of Option 2 is measurable, as the extent of the increase in conditions imposed and the subsequent reduction in disruption can be monitored and evaluated over time.

³³ Locking-on refers to a tactic used by protestors. It involves protestors attaching themselves to another person, a building, road or any part of a specified location object or land, in a deliberate attempt to make it difficult for them to be removed from their protest location. Protestors may use glue, padlocks, or constructed hardware, used to lock themselves on.

³⁴ The EANDCB is defined as the Equivalent Annual Net Direct Cost to Business. It is used as a comparative measure of the administrative burden on business from regulation by the Regulatory Policy Committee (RPC).

84. Although the NPSV is negative, there are likely be significant non-monetised benefits, and this government intervention is required to be legislated to clarify the police's necessary tools to protect the public from severe disruption resulting from the actions of a minority. Option 2 meets the efficiency criteria for measuring value for money; the improved public safety outcomes expected from these measures will be worth the invested resources used to implement the measures.
85. Option 2 will also be effective in terms of measuring value for money. The benefit from introducing the measures in Option 2 will directly feed through to the public and those who are currently disrupted by protest activity.

SaMBA

86. The proposed legislation imposes no direct costs or benefits on micro, small, or medium-sized businesses, so a SaMBA is not required. It is assumed there will be indirect benefits to business resulting from reduced social disruption, as described above.

F. Risks and unintended consequences

Risks

87. The analysis presented in this Economic Note are based on a range of assumptions and data sources, which are uncertain. These assumptions have associated analytical risks. The main risk is that the analysis has not been able to estimate the exact number of additional criminal outcomes arising from the measure. This is because there is an absence of evidence around the number of new conditions that will be imposed by the police following the introduction of this measure, and also due to the uncertainty inherent in protestor behaviour.
88. The exact reaction to the new measure from protestors is unknown, meaning the full value for money and consequences from the measure is uncertain, posing a risk. Scenario testing has been implemented to reflect this uncertainty in the analysis. However, there is a risk that the scenario testing, which estimates a range of possible imposed conditions by the police is unrealistic. The cost section explains the assumption-based scenarios and the scenario-based analysis is reasonable given the low impact the measure is expected to have on CJS outcomes. Protestors who would have CJS outcomes often intend to get arrested, so broadening the range of circumstances in which conditions can be imposed would not change this outcome and means scenario analysis is reasonable.
89. Due to the considerable uncertainty of protestor behaviour, the CJS outcomes have been monetised based on assumptions made on the proportion of prosecutions that will be tried in a Magistrates court, and those that will require legal aid. These assumptions are based on examples of criminal proceedings for similar offences and breaches of conditions. Although there is a risk that the current data is not representative, a low central and high estimate has been calculated to reflect the uncertainty in the assumptions where possible, and it is concluded that given the absence of specific data available, the best proxies have been used.
90. There is a risk that the full costs and benefits of the measures have not been captured, as the only cost that has been monetised are CJS costs and the opportunity cost of time. This risk is minimised as it is reasonable to assume that the main costs are those faced by the CJS. Although it has not been possible to monetise the benefits associated with the new measure in regard to reduced disruption, these are explained clearly in the Economic Note.

Unintended consequences

91. There are several wider impacts and unintended consequences that could occur as a result of the measure. Although, due to the nature of protestor behaviour, it is difficult to identify the

exact wider impacts of the measures involved, so there are a broad range of potential unintended consequences. The increased use of police powers to cover protests, as set out in this measure, could result in protests becoming more unpredictable and difficult to control.

92. There is still a possibility that as an unintended consequence of better enabling the police to target protestors, protestors could seek alternatives to their usual protest behaviour, some of which would be more dangerous. This could be in terms of general protest tactics used, to either avoid breaching conditions or use the new powers to their benefit through gaining attention.
93. The general unintended consequences of increasing use of police powers should also be considered when implementing this measure. If specific social groups are more present at protests, and subsequently targeted by the police (such as those at Black Lives Matter protests in 2020), any legislation that increases the use of police powers for policing protests could have unintended consequences for those groups, where they are particularly targeted. These groups include protected characteristics covered in the Public Sector Equality Duty. An Equality Impact Assessment has been completed for this measure.

G. Monitoring and evaluation

94. The Government will informally review and monitor measures following implementation.

Specific Impact Test Checklist

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p>Statutory Equalities Duties</p> <p>The Home Office have completed an Equalities Impact Assessment for this measure, and we are not aware of any evidence to suggest that any of these measures will be directly or indirectly discriminatory on the grounds of protected characteristics. We are aware that certain protests may be carried out on the grounds of equality issues among certain groups with shared protected characteristics. For example, protests relating to sexual orientation may consist of a large number of individuals who identify as a particular sexual orientation. However, as with the use of all public order powers, we expect the police to exercise their powers in a fair and proportionate manner that carefully considers the individual's freedoms of religion, expression and assembly under the Human Rights Act 1998, as well as the protected characteristics of anyone at the protest. The police are required to comply with the Equality Act 2010.</p> <p>We have also not identified ways in which the measure can advance equality of opportunity between people who have certain shared protected characteristics.</p> <p>The SRO has agreed these findings.</p>	<p>Yes</p>