

Title: Counter-Terrorism and Security Act 2015 - Temporary Passport Seizure – Royal Assent IA No: HO0142 Lead department or agency: Home Office Other departments or agencies:	Impact Assessment (IA)				
	Date: 11 February 2015				
	Stage: Final				
	Source of intervention: Domestic				
	Type of measure: Primary legislation				
Contact for enquiries: CTSBill@homeoffice.x.gsi.gov.uk					
Summary: Intervention and Options					RPC Opinion: Not Applicable

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 Two-Out?	
£-1.2m	0	0	OUT OF SCOPE	n/a

What is the problem under consideration? Why is government intervention necessary?
 On 29 August 2014 the Joint Terrorism Analysis Centre raised the UK threat level from SUBSTANTIAL to SEVERE meaning that a terrorist attack is 'highly likely'. There is a need to legislate to deal with the increased terrorist threat. The Government's ability to disrupt individuals from travelling abroad to engage in terrorism-related activity has become increasingly important with developments in Syria and Iraq. Law enforcement agencies are limited in their ability to respond to new intelligence on the travel intentions of such individuals without a power to immediately seize the passports of individuals suspected of travelling for terrorism-related activity.

What are the policy objectives and the intended effects?
 To disrupt individuals (British citizens and foreign nationals) travelling abroad to engage in terrorism-related activity by:

- Immediately disrupting the travel of persons suspected of travelling for terrorism-related purposes;
- Reducing the impact of individuals' returning to the UK with enhanced terrorism-related capabilities; and
- Facilitating police and operational partners' investigations of the travel intentions and threat posed by such persons.

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

Option 1: Make no changes
 There are no additional costs or benefits if there is no policy change.

Option 2: Legislate to provide police officers and Border Force officers (under the direction of a police officer) with the power to seize and retain a passport for up to 30 days.
 Two offences would be created to ensure that the powers could be enforced. These would be:
 - failing without reasonable excuse to hand over all travel documents when required; and
 - intentionally obstructing or seeking to frustrate a search for these documents.

Option 2 is the preferred option as it best meets the policy objectives.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2016					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro NO	< 20 NO	Small NO	Medium NO	Large NO
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: NA		Non-traded: NA

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

Signed by the responsible Minister: Karen Bradley Date: 12/02/2015

Summary: Analysis & Evidence

Policy Option 1

Description: Make no changes

FULL ECONOMIC ASSESSMENT

Price Base Year 13/14	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	0	0
High	N/A	0	0
Best Estimate	N/A	0	0

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

Do nothing option.

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

Do nothing option.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	0	0
High	N/A	0	0
Best Estimate	N/A	0	0

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

Do nothing option.

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

Do nothing option.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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Without sufficient powers to search for and seize passports and travel documents of those suspected of travelling for terrorism related-purposes, we will be less able to disrupt suspected terrorist travel in emergency situations. There will be a risk to public protection if individuals of concern are permitted to travel, engage in terrorism-related activity and return to the UK with enhanced capabilities, thus posing a risk of serious harm to the public.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	NO	N/A

Summary: Analysis & Evidence

Policy Option 2

Description: Legislate to provide the police officers and Border Force officers (under the direction of a police officer) with the power to seize and retain a passport for up to 30 days.

FULL ECONOMIC ASSESSMENT

Price Base Year 13/14	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -1.55	High: -0.91	Best Estimate: -1.23

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.11	0.09	0.91
High	0.32	0.14	1.55
Best Estimate	0.21	0.12	1.23

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

There will be a one-off staff training course for Border Force officers and police officers. This is estimated to cost between £105,043 and £315,129, with a best estimate of £210,086, based on an assumption that between one and three hours training would be required. Costs for training new entrants and 'top-up' training would be negligible. There will be a cost to the Criminal Justice System (CJS) of processing individuals who commit one of the two new offences. Prosecution for either of these new offences could cost the CJS £7,700 per defendant. The cost of a magistrates' court reviewing the use of this power has been estimated to be between £0-£50k per year; with a best estimate of £25k. There may be additional Home Office and partner staffing costs in supporting the policy. This has been estimated to be around £90k. There will be an annual cost to the Criminal Justice System of processing individuals who commit one of the two new offences. This is estimated to be £117,000 annually. During the passage of the Counter-Terrorism and Security Act through Parliament, the Government tabled amendments to extend the availability of civil legal aid for those subject to the temporary passport seizure power in England and Wales, and in Northern Ireland, respectively, subject to individuals meeting the statutory means and merits test. This IA estimates a cost of approximately £4000 per annum relating to civil legal aid applications for individuals in cases where police apply to the courts to extend the retention period.

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

Individuals who are travelling will be prevented from travelling for up to 30 days whilst the police and Security Services conduct an investigation. There may be a cost to the CJS from an increase in judicial reviews if individuals feel that they have been unfairly or improperly stopped and had their passport and travel documents seized. We have not monetised this cost due to insufficient data. In addition, and in certain circumstances, individuals (and in further limited circumstances their families if travelling with them) may be entitled to accommodation and subsistence support. We have been unable to monetise these costs as we expect the volume of people of people who could be affected by this to be low, and it would be disproportionate to spend time analysing this cost.

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

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

We have not been able to monetise the benefits, but the impact (financial and more widely) of a terrorism incident is significant.

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

Police resources may be saved if the police do not need to investigate suspected overseas terrorist activities of individuals who have travelled for terrorist-related purposes.

Using the new power to seize travel documents could disrupt the travel of individuals to locations which facilitate terrorist networking, training and experiences which provide individuals with enhanced capabilities to use abroad or in the UK on their return.

Key assumptions/sensitivities/risks**Discount rate (%)**

3.5

- Please see the Evidence Base for a full list of CJS assumptions.
- The costs presented are not necessarily new financial costs, but opportunity costs representing resources diverted away from other activities.
- We assume that training in subsequent years will be absorbed into existing training activities.
- To safeguard against the inappropriate repeated use of the power against the same individual, if the power were exercised three times in a six month period in relation to the same individual, the police would be required to satisfy a District Judge of the need to retain the passport and travel documents.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	NO	N/A

A. Define the problem

On 29 August 2014 the Independent Joint Terrorism Analysis Centre raised the UK national terrorist threat level from SUBSTANTIAL to SEVERE meaning that a terrorist attack is 'highly likely'. Nearly 600 people from the UK who are of interest to the security services are thought to have travelled to Syria and Iraq since the start of the conflicts and we estimate that around half of those have returned; a number of these individuals have joined terrorist organisations including the Islamic State of Iraq and the Levant (ISIL). On 1 September 2014 the Prime Minister announced that legislation would be brought forward in a number of areas to stop people travelling overseas to fight for terrorist organisations, or conduct terrorist related activity, and subsequently returning the UK, and to deal with individuals already in the UK who pose a risk to the public.

The Government's ability to disrupt individuals from travelling abroad to engage in terrorism-related activity has become increasingly important with developments in Syria and other parts of the world. Such travel has the potential to cause significant damage to the UK national interest.

Having a power to disrupt immediate travel will enhance the police and law enforcement agencies' ability to protect the public from the risk of terrorism. For example, the Royal Prerogative power to cancel or refuse passports on public interest grounds is an important travel disruption tool. However, it cannot be exercised quickly enough in an emergency situation to disrupt the travel of an individual who unexpectedly arrives at port, and the power can only be exercised in respect of British passport holders. Having an immediate travel disruption power would also provide operational partners with sufficient time to investigate the individual and assess whether other longer-term disruption action should be taken.

Without a power to immediately seize the passports of individuals suspected of travelling for terrorism-related activity, the police and law enforcement agencies can be limited in their ability to respond to new intelligence on the travel intentions of such individuals. This applies in particular to individuals previously unknown to the police, as well as to known individuals who make unexpected travel plans.

B. Rationale

Protecting the UK against terrorism is a fundamental role of Government. Counter-terrorism measures require judgments on the need to balance protecting the public with safeguarding civil liberties and dealing with sensitive issues of national security. Such judgments should not be left to the private sector. The private sector does not have the access to intelligence to understand the scale/nature of the threat.

It is the Government that manages sensitive information and intelligence on individuals that pose a terrorist threat and is responsible for the safety and security of UK citizens. Given the necessity of counter-terrorism measures, and the role of the Government to protect the public, the Government is uniquely placed to fulfil this role.

C. Objectives

To disrupt individuals (British citizens and foreign nationals) travelling abroad to engage in terrorism-related activity by:

- Immediately disrupting the travel of persons suspected of travelling for terrorism-related purposes;
- Reducing the impact of individuals returning to the UK with enhanced terrorism-related capabilities; and
- Facilitating police and operational partners' investigation of the travel intentions and threat posed by such persons.

D. Options

Option 1: Make no changes

There are no additional costs or benefits if there is no policy change.

Option 2: Legislate to provide police officers and Border Force officers (under the direction of a police officer) with the power to seize and retain a passport for up to 30 days.

The proposal is to create a new power for the police to seize passports and other travel documents at port. Border Force officers could exercise the powers if directed to do so by a police officer.

The power enables law enforcement to stop, search for, seize and retain travel documents. This power would only be exercisable where there are reasonable grounds to suspect that the person is travelling for terrorism-related purposes.

A Code of Practice would inform the use of this power.

A senior police officer of at least superintendent rank would authorise the retention of the passport at port. A senior police officer outside the chain of command, above superintendent rank, would also review the continued retention of the passport within 72 hours.

If the power is exercised against the same individual three times in a six month period, the police will have to satisfy a District Judge within five days of the seizure of the continuing need to retain the passport.

Two offences would be created to ensure that the power could be enforced. These would be:

- failing without reasonable excuse to hand over all travel documents when required; and
- intentionally obstructing or seeking to frustrate a search for these documents.

Groups Affected

- **The police and Border Force** will be informed of the creation of the power, and instructed on how to use it.
- **The Criminal Justice System (CJS)** will need to review the continuing need for the police to retain the passport for their investigation after 14 days. The new offences would have a downstream impact on the CJS, including to the Crown Prosecution Service (CPS), Legal Aid Agency (LAA), Her Majesty’s Courts and Tribunal Service (HMCTS) and National Offender Management Service (NOMS).
- **Individuals who are travelling** may be prevented from travelling for up to 30 days (depending on the police successfully obtaining an extension from a magistrates court) whilst the police and Security Services conduct an investigation.
- **The police and Security Services** may have up to 30 days (depending on the outcome of the magistrates’ court review) to decide whether other disruption activities are required.

There are no expected costs to business.

COSTS

Training police officers and Border Force officers

We estimate that it will take one to three hours to train an individual to use the power. Having consulted the police and Border Force, we have estimated a one off training cost to them in the first year of operation. The costs for training new entrants and top up training would be minimal. The data below is based on the Home Office’s best estimates of volumes, and internal pay data.

Staff type	Number to be trained	Hourly cost	Low estimate (1 hour)	Best Estimate (2 hours)	High Estimate (3 hours)
Senior Police Officers ¹	843	£58.79	£49,560	£99,120	£148,680
Police Sergeants and below	916	£36.51	£33,443	£66,886	£100,329
Border Force Operational Staff	950	£23.20	£22,040	£44,080	£66,120
Total	2709		£105,043	£210,086	£315,129

Cost to the Criminal Justice System

Please note that as this is a new offence we do not have any evidence on volumes so the figures below should be taken as illustrative. We estimate that the powers could be used up to 50 times a year.

¹ 23 Police Inspectors, 800 Police Superintendants, 20 Police Chief Superintendants and ACPO rank officers

The cost of new offences

There will be a cost of prosecuting individuals who commit either of the two new offences.

We consider the number of individuals prosecuted under the new offences to be minimal.

Having consulted with the police, we assume that there would be minimal non-compliance with the new powers and the requirement to hand over travel documents or be searched would be minimal. We do not have any evidence on which to base a best estimate of how many criminal offences would occur. This should be taken as an illustrative costing rather than a firm estimate due to limited evidence on volumes.

We estimate that a prosecution for either of these new offences could cost the Criminal Justice System **up to £7,700²** per defendant proceeded against.

Magistrates' Court review

This is a review by a District Judge of the continuing need for the police to retain travel documents beyond 14 days of their original seizure. This is separate to a magistrates' court hearing for offences regarding the individual's non-compliance as described above.

There are 27 District Judges ticketed to hear terrorism and extradition cases in England and Wales:

- 18 District Judges in London are ticketed to hear Terrorism and Extradition cases; and
- 9 District Judges outside London are ticketed to hear Terrorism cases.

Of the District Judges outside London, there is at least one District judge per region – that is in the South West, South East, Wales, North East and North West.

The costs would be for District Judges to travel around the country to hear cases. This could be an estimated £1,000 to cover travel and subsistence and backfilling their roles.

We cannot predict how many times the court review would be used, so we have used a range of 0- 50 with a **best estimate of 25**. We do not have evidence to suggest how many court hearings will be required, and this estimate is therefore uncertain.

Cost estimates:

Low estimate **£0 pa**

Best estimate **£25,000 pa**

High estimate **£50,000 pa**

Legal aid costs for cases subject to the Magistrates' Court review

The Legal Aid Agency estimates the cost of granting civil legal aid in each extension application to be approximately £520. This is based on the scope of potential arguments in these proceedings and the assumption that individuals would require legal help in advance of the proceedings paid at rates set out in table 7(e) of the Civil Legal Aid (Remuneration) Regulations 2013. They estimate that this would involve three hours of preparation, one hour of conference, three hours of advocacy and two hours travelling and waiting, funding through licensed work at the fee levels set out in table 10(b) of the Civil Legal Aid (Remuneration) Regulations 2013.

² In 2013/14 prices and rounded to the nearest £100.

The provision of legal aid will be subject to statutory means and merits tests. The Ministry of Justice (MoJ) advise that approx 30% of the population qualify for civil legal aid, following application of the statutory means test. This value is based on modelling of the general population using family resources survey data which suggests that approximately 30% of individuals would meet the statutory means test on the basis of their household's financial data. We therefore expect the cost to the legal aid fund for applications to extend a TPS to reach around £4000 per annum.

Judicial review of decision to exercise TPS power

There is a risk that the individuals may bring a judicial review if they feel that they have been unfairly or improperly stopped by the police or Border Force and had their passport seized. There is also the risk of legal challenge if the police later return the passport either on the day or within 14 days of the seizure. These risks can be mitigated by ensuring that the Code of Practice:

- contains a complaints procedure so individuals know how to seek redress and further information if they are subject to the exercise of this power;
- makes clear how the police and Border Force should properly exercise the power.

We have not monetised the overall cost of potential judicial reviews given the uncertainty about how frequently this mechanism may be used. However the Legal Aid Agency has assessed that an individual application for judicial review under this power, if legal aid was granted, would cost approximately £3400.

Additional costs

There may be additional staffing costs for the Home Office and partners in supporting the passport seizure policy. This has been **estimated to be approximately £90,000**.

Net Present Cost³

All costs have a 3.5% annual discount rate applied.

High Estimate	10 year Net Present Cost = £1.55 million									
Year	1	2	3	4	5	6	7	8	9	10
Training (000's)	£315	£0	£0	£0	£0	£0	£0	£0	£0	£0
Annual cost (000's)	£144	£139	£135	£130	£126	£122	£118	£114	£110	£107

Best Estimate	10 year Net Present Cost = £1.23 million									
Year	1	2	3	4	5	6	7	8	9	10
Training (000's)	£210	£0	£0	£0	£0	£0	£0	£0	£0	£0
Annual cost (000's)	£119	£115	£111	£108	£104	£101	£98	£94	£91	£88

Low Estimate	10 year Net Present Cost = £0.91 million									
Year	1	2	3	4	5	6	7	8	9	10
Training (000's)	£105	£0	£0	£0	£0	£0	£0	£0	£0	£0
Annual cost (000's)	£94	£91	£88	£85	£82	£80	£77	£75	£72	£70

³ This does not include the total cost to the CJS as volumes of those proceeded against still need to be confirmed.

High estimate 10 year Net Present Cost = £1.55 million.

Best estimate 10 year Net Present Cost = £1.23 million.

Low estimate 10 year Net Present Cost = £0.91 million.

BENEFITS

Police

Resources are likely to be saved from the investigation of suspected individuals who have travelled for terrorism-related activity and who would have posed a significant threat if they had been able to travel. These benefits may extend to reduction by overseas law enforcement partners.

The general public

Using the new power to seize travel documents could disrupt the travel of individuals to locations which facilitate terrorist networking, training and experiences which provide individuals with enhanced capabilities on their return.

GENERAL ASSUMPTIONS & DATA

The costs presented are not necessarily new financial costs, but opportunity costs representing resources diverted away from other activities.

The two new offences will impact the criminal justice system.

These offences will be summary only⁴ with a maximum penalty of 6 months' imprisonment and a fine.

Because of uncertainty around likely volumes of prosecutions for these new offences, analysis has been limited to an estimated cost per case. We have provided an estimated cost per defendant⁵ proceeded against for these offences. The cost provided is an estimated average cost of a proceeding from the beginning to the end of the case (whether the offender is found guilty or not and accounting for the range of disposals⁶ possible).

The costs presented for the National Offender Management Service (NOMS) present a worst case scenario, i.e. that all those proceeded against are convicted, and are sentenced to the maximum custodial sentence. Therefore the cost we present is likely to be an upper limit. This is because no sufficiently similar offence already exists which would support robust modelling. As the offence is summary only, standard costs can be applied for the Crown Prosecution Service (CPS), HM Courts & Tribunals Service (HMCTS) and the Legal Aid Agency (LAA).

We have not weighted the wages of the police officers via rank in further detail as this level of analysis would be disproportionate to the cost.

Estimated CJS costs per case⁷

⁴ An offence that is triable only in the magistrates court; all proceedings will start and end in the magistrates court.

⁵ With the exception of CPS and HMCTS, where it is cost per case.

⁶ The end result of a trial at court.

⁷ All costs are rounded to the nearest £100 and are in 2013/14 prices

Cost estimates have been produced using unit costs for different parts of the Criminal Justice System. See **Annex A** for a full outline of the assumptions and associated risks.

CPS and HMCTS: Prosecution costs to the CPS and court costs to HMCTS are different in the magistrates' court (MC) compared to the Crown Court (CC), and are higher in the latter. As the proposed new offences are both summary only, estimates refer to the magistrates' court (summary offences are not heard in the Crown Court). We **estimate that the cost to the CPS per case would be approximately £200**; and that **costs to HMCTS would be approximately £300 per case**.

Legal Aid Agency (LAA) Costs: LA eligibility and costs also differ in the MC and CC. Typically a higher proportion of defendants are eligible in the CC.⁸ For both offences, we assume an average eligibility rate of 50% at the magistrates court. This is because we have no reason to expect that eligibility will vary from the average. We **estimate that the cost to the Legal Aid Agency per defendant would be approximately £200**.

Prison costs: The average prison costs per proceeding are weighted by the estimated proportion of defendants proceeded against that receive a custodial sentence and the average custodial sentence length (ACSL) served. It has been assumed that 100% of those proceeded against are convicted and sentenced to custody (as a worst case scenario). The ACSL given is assumed to be 6 months, as this is the maximum sentence length. It has been assumed that offenders serve half of their custodial sentence; therefore, the sentence served is 3 months. The **estimated prison costs per case are £7,000**.

Probation costs: There are no probation or post release license costs currently associated with these offences because the sentence given is less than 12 months.

ONE-IN-TWO-OUT (OITO)

This is out of scope as it has no business impact.

E. Risks

Option 1

Without a power to search for and seize travel documents of those suspected of travelling for terrorism related purposes, we will be less able to disrupt suspected terrorist travel in emergency situations. These situations will occur when the Royal Prerogative and other disruption tools cannot be exercised quickly enough to disrupt the travel of individuals who arrive unexpectedly at port. There will be a risk to public protection if individuals of concern are permitted to travel, engage in terrorism-related activity and return to the UK with enhanced capabilities, thus posing a risk of serious harm to the public. There is the potential for significant damage to the national interest if new powers are not brought forward.

Option 2

Possible risks will be mitigated by monitoring and reviewing the use of the powers. We will provide clear guidance on the proper use of the powers to police officers and Border Force officers in a Code of Practice. We will make the power to retain the travel documents subject to senior police officer authorisation (superintendent level or above).

⁸ Legal Aid eligibility in the magistrate's court is dependant on a defendant passing the interests of justice test, and a means test. For more information, see: <https://www.gov.uk/legal-aid/eligibility>

We will develop a complaints procedure to provide information and redress to individuals who believe they have been unfairly stopped and had their travel documents removed and provide an avenue of complaint to the Independent Police Complaints Commission (IPCC). It is also open to the individual to consider taking legal advice and to seek a judicial review at any stage. As such, the Government could incur resulting costs.

To safeguard against the inappropriate repeated use of the power against the same individual, if the power were exercised three times in a six month period in relation to the same individual, the police would need to satisfy a District Judge in the magistrates' court within five days on the third occasion to justify the need to retain the travel documents.

The public may be concerned that the policy provides further stop and search powers for the police at port. We can mitigate this risk by clear messaging about the power's intention and scope and monitoring and reviewing the use of the power.

It is possible that this power may be exercised on passengers in transit and those who are not resident in the UK. If this occurred, there would be additional costs to the individual following their disrupted journey and extended stay in the UK as a result of the exercise of the power. These costs have not been included in this impact assessment as we expect the volume of people who could be affected by this to be low, and it would be disproportionate to spend time analysing this cost.

In certain circumstances the Home Office will provide accommodation and subsistence support to individuals (and in limited further circumstances their families if travelling with them). These costs (either to the individuals or the Government) have not been included in this impact assessment as we expect the volume of people who could be affected by this to be low, and we are accordingly unable to monetise the cost.

F. Implementation

This power will come into force the day after the Counter-Terrorism and Security Act 2015 receives Royal Assent.

G. Monitoring and Evaluation

The police and Border Force will collect data to monitor the use of the powers.

H. Feedback

The police and Border Force will only continue to use the power if it is effective.

Progression of cases through the CJS⁹	
Assumption	Risk
<p>Proportion of defendants found guilty</p> <ul style="list-style-type: none"> It is assumed that there will be a 100% conviction rate for both of the proposed new offences. 	<ul style="list-style-type: none"> There is a risk that fewer defendants will be convicted.
<p>Disposals given:</p> <ul style="list-style-type: none"> It is assumed that all offenders are given a custodial sentence; this will be the same for both offences. <p>Average custodial sentence length (ACSL):</p> <ul style="list-style-type: none"> The custodial sentence length given is assumed to be six months (as this is the maximum sentence of both offences). It is assumed that this will be the same for both offences. <p>Source: MoJ Internal Analysis 2014.</p>	<ul style="list-style-type: none"> Risk that some offenders are given a disposal other than a custodial sentence. Possibility that custodial sentences are served concurrently which could have an impact on cost. That the ACSL given could be shorter. Offenders given less than 12 months in custody are not currently subject to supervision on release. Under the Offender Rehabilitation Act 2014 this will change but for the purposes of this IA we have based estimates of cost on current practice.
<p>Other policies</p> <ul style="list-style-type: none"> Our analysis does not take into account the possible interaction with other policies that have not yet been commenced. 	<ul style="list-style-type: none"> There is the risk that such policies, once commenced, could have an impact on the base case set out in this impact assessment. As a result, the associated impacts may be under or over estimated.

⁹ All of the costs presented below have been rounded to the nearest £100 and are in 2013/14 prices.

Cost assumptions	
<p>CPS costs, advocacy costs:</p> <ul style="list-style-type: none"> The estimated CPS costs consist of two broad categories, advocacy costs and Activity Based Costings (ABC). The primary purpose of the ABC model is resource distribution, and has several limitations (see risks). The range of costs reflects the different ABC and advocacy costs for guilty plea and effective trials. <p>Source: CPS 2014; MoJ internal analysis, 2014.</p>	<ul style="list-style-type: none"> The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated.
<p>HMCTS costs (magistrates' courts):</p> <p>To generate the costs by offence categories, HMCTS timings data for each offence group were applied to court costs per sitting day. Magistrates' court costs are £1,100 per sitting day in 2013/14. A sitting day is assumed to be five hours. The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2013-14. HMCTS timings data from the Activity based costing (ABC) model, the Timeliness Analysis Report (TAR) data set and the costing process.</p>	<p>Timings data for offence categories:</p> <ul style="list-style-type: none"> The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a District Judge (magistrates' court) sits. The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a DJ (MC) sits. Timings do not take into account associated admin time related with having a case in court. This could mean that costings are an underestimate. There is some information available on admin time, however we have excluded it for simplicity. The timings are collection of data from February 2009. Any difference in these timings could influence costings. The timings data also excludes any adjournments (although the HMCTS ABC model does include them), and is based on a case going through either one guilty plea trial (no trial) or one effective (not guilty plea) trial. However a combination of cracked, ineffective and effective trials could occur in the case route. As a result the costings could ultimately be underestimates. Guilty plea proportions at the Initial hearing from Q2 in 2012 are used based on the Time Analysis Report. As these can fluctuate, any changes in these proportions could influence court calculations (effective trials take longer in court than no trials (trials where there was a guilty plea at the initial hearing)).

	<p>HMCTS average costs per sitting day:</p> <p>HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.</p>
<p>Legal Aid Costs:</p> <p><i>Cases in the magistrates court</i></p> <ul style="list-style-type: none"> • It is assumed that the eligibility rate for legal aid in the magistrates' court will be 50%. • The average cost per case is £500, and that there is one defendant per case. This is based on the latest available legal aid statistics (Jan-Mar 2014), and is calculated by dividing total case value by total case volume. See: https://www.gov.uk/government/publications/legal-aid-statistics-april-2013-to-march-2014 (Main tables, table 2.3). 	<p><i>Magistrates court</i></p> <ul style="list-style-type: none"> • Variance in the legal aid eligibility rate assumed for cases in the magistrates' courts would impact the costings. • More than one defendant prosecuted per case and therefore more solicitors and barristers per case than assumed thus understating the actual cost.
<p>Prison costs:</p> <ul style="list-style-type: none"> • It is assumed that an offender serves half of their given custodial sentence (in this case that they serve approximately three months in prison, on average). • The cost per prison place is approximately £28,000. <p>Source: NOMS management accounts addendum (2012/13).</p>	<ul style="list-style-type: none"> • The cost of additional prison places is also dependent on the existing prison population, as if there is spare capacity in terms of prison places then the marginal cost of accommodating more offenders will be relatively low due to existing large fixed costs and low variable costs. Conversely, if the current prison population is running at or over capacity then marginal costs would be significantly higher as contingency measures will have to be found.
<p>Probation costs:</p> <ul style="list-style-type: none"> • It is assumed that there are no probation costs associated with this offence. This is because it is assumed that all offenders are given a custodial sentence of less than 12 months imprisonment and therefore they are not subject to post custodial release licence conditions. 	<ul style="list-style-type: none"> • We have based our estimates on current practice. However the Offender Rehabilitation Act 2014 includes provisions to introduce post release licence conditions for offenders given a custodial sentence of less than 12 months. After the commencement of these provisions, there will be costs associated with post release licence for offenders convicted of this offence who are sentenced to immediate custody. The wider costs of extending post-release supervision to any offenders released from short custodial sentences will be met through savings realised from the Transforming Rehabilitation reforms to probation services.